

JOHN GRANGER COOK

Crucifixion in the Mediterranean World

*Wissenschaftliche Untersuchungen
zum Neuen Testament*

327

Mohr Siebeck

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Crucifixion in the Mediterranean World

2nd, extended edition

Mohr Siebeck

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לזכר נשמת חברי ענדרו משה מוסקוויץ
ניצול שואה

et

ELISABETH
FILIAE DILECTISSIMAE

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After I wrote an article on the *lex Puteolana*, the Palatine graffito, and several other ancient pieces of evidence about Roman crucifixion, the late Professor Martin Hengel asked me to revise his small book on the topic. I soon reached the conclusion that it would be advisable to write my own monograph. Along the way many have offered their help and advice, and some have read parts of the manuscript. These include: Professors Paul Achtemeier (†), Jean-Jacques Aubert, Timothy D. Barnes, Roger Bagnall, Jerker and Karin Blomqvist, John Bodel, Daniel Botsman, Giuseppe Camodeca, David W. Chapman, Kathleen M. Coleman, Simon Corcoran, Werner Eck, James Hevia, Annewies van den Hoek, Carl R. Holladay, Erkki Koskeniemi, Thomas J. Kraus, Felicity Harley McGowan, Josh van Lieu, Antonio Lombatti, Gordon Newby, Vernon Robbins, Arthur Robinson, Filippo Canali De Rossi, Donald Schley, A. J. Boudewijn Sirks, Timothy Moore, and William R. Turpin. I owe a particular debt of gratitude to Professor Coleman for helping me sort out the semantics of *patibulum* and its relationship to σταυρός and for her unstinting willingness to help with a number of other issues. The same debt is due to Professor Sirks for critiquing my views on crucifixion and Roman law. I am, of course, responsible for my conclusions and any errors. Professor Aubert encouraged me to gather as much archaeological material as I could and to consider punishments related to crucifixion. The *lex Puteolana* and the Alkimilla graffito were fruits of that search (both were well known to a very narrow group of classical scholars). Professor Robinson, librarian and Latinist at my own institution, procured numerous obscure resources for me and answered many questions about Latin. Mr. Joseph E. Zias graciously provided me with information on various archaeological matters in ancient Palestine. Drs. Richard Goulet and Marie-Odile Goulet-Cazé (Paris) and Dr. Anne-Madeleine Goulet (Rome) answered a number of questions and sent material I found impossible to find in the USA. Several colleagues from diverse fields provided extremely helpful information about the physical effects of Roman impalement and some of the arguments I have used in the monograph. They include: Professors Terry Austin (physics), Melinda Pomeroy-Black (biology), Nickie Cauthen (biology), William Paschal (anatomy), and Senior Lecturer Ian Morton (philosophy). I was able to make an unforgettable visit to the *taberna* in Pozzuoli (the Alkimilla graffito), which I am convinced is one of the most

valuable pieces of visual evidence about Roman crucifixion that has survived from antiquity. On the same visit to Italy I was able to closely inspect the fresco from the Arieti tomb in the Centrale Montemartini (Capitoline Museums, Rome), which is valuable in its own right for its depiction of a man attached to a *patibulum*. With regard to the Alkimilla graffito, I am profoundly indebted to Professor Camodeca for his photographs and the time he spent informing me about the find in correspondence. My students constantly pose inspiring questions including one a theologically inclined New Testament scholar always needs to ask herself or himself: What is the value of this research for understanding the New Testament, and what is its value for the church? I am grateful to Provost David Garrison and President Dan McAlexander of my own institution, LaGrange College, for helping make this monograph possible. Most of all I am thankful for my wife Barbara Horton who supported my research into a very dark corner of human history.

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Preface to the Second Edition

The preface, in which I engage some of my reviewers, an additional image requested by a reviewer (10 bis), and an *addendum* after the original conclusion of the first edition (2014) comprise the changes for the second edition of *Crucifixion in the Mediterranean World*. The *addendum* includes some textual material and some comments on archaeological data with possible relevance to ancient crucifixion. I have corrected some typographical errors noted by reviewers.

My book appeared after David Chapman's first-rate analysis of perceptions of crucifixion in ancient Judaism and after Gunnar Samuelsson's impressive frontal assault on the understanding of Roman crucifixion contained in the lexica, commentaries, and scholarly works of various sorts on crucifixion and on the passion of Jesus.¹ Together with the monograph also published in 2014 by David Chapman and Eckhard Schnabel on texts relevant to the trial and crucifixion of Jesus, all four volumes provide the interested reader with more material on crucifixion than she or he could ever want.²

A number of individuals have been kind enough to review the first edition of my book.³ By far the most critical of these reviews is that of my colleague

¹ D. W. Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, WUNT 2/244, Tübingen 2008, G. Samuelsson, *Crucifixion in Antiquity. An Inquiry into the Background of the New Testament Terminology of Crucifixion*, WUNT 2/310, Tübingen 2013.

² David W. Chapman, and Eckhard J. Schnabel. *The Trial and Crucifixion of Jesus. Texts and Commentary*, WUNT 344, Tübingen 2015. Cf. J. G. Cook, rev. of Chapman and Schnabel, *JTS* 68 (2017) 290–293.

³ J. West, *Zwinglius Redivivus* 2014/10/03, <<http://zwingliusredivivus.wordpress.com/2014/10/03/crucifixion-in-the-mediterranean-world/>>, K. Brown, *Diglotting* 2014/08/27 <<https://diglot.wordpress.com/2014/08/27/book-review-crucifixion-in-the-mediterranean-world/>>, D. Senior, *TBT* 52 (2014) 375–6, B. Paschke, *Soteria* 31 (2014) 45–6, *NTA* 58/3 (2014) 620–1, V. Fàbrega, *Actualidad Bibliográfica* (2014) 162–164, S. Schreiber, *BZ* 59 (2015) 147–9, C. L. Quarles, *RBL* 04 (2015) <<https://www.bookreviews.org/bookdetail.asp?TitleId=9807>>, A. O'Leary, *JSNT* 37/5 (2015) 7–8, A. Standhartinger, *TRev* 111 (2015) 119–21, G. Ghiberti, *Archivio Teologico Torinese* 21 (2015) 157–60, Z. J. Kapera, *The Polish Journal of Biblical Research* 14 (2015) 223–7, M. Matter, *RHPR* 95 (2015) 476–8, R. Vicent, *Salesianum* (2015) 77 (3) 570–1, G. Samuelsson, *TLZ* 141 (2016) 329–31, M. Gourgues, *RB* 123 (2016a) 292–7, M. Gourgues, *ScEs* 68 (2016b) 425–9, J. N. Carleton Paget, *JEH* 67 (2016) 849–51, A. Heindl, *SNTSU* 41 (2016) 208–11, J. Botticelli, *The Christian Librarian* 59 (2016) 280–1, David Chapman, *BBR* 26 (2016) 590–2, J. H. Dee, *Bryn Mawr Classical Review* 2017.01.19,

and friend Gunnar Samuelsson. His is the only review (out of twenty-six reviews and abstracts known to me) that seeks to “considerably weaken the basic argumentation of the book.”⁴ This is only fair, since I subjected the radically skeptical methodology he adopted in his own monograph on crucifixion to protracted criticism in the *Review of Biblical Literature*.⁵ In general I do not think it profitable for scholars to argue back and forth with one other in the journals (or in monographs) in endless interchanges, and after examining the pages below, the readers of this Preface may well agree. The guild of scholars of early Christianity and the guilds of classical philologists and historians will ultimately have to make the decision between the methodologies adopted by Samuelsson and myself. What follows may be taken as a sort of *Apologia pro libro suo*.

The key issue can be summarized in one sentence: examinations of crucifixion in Roman antiquity should begin with the evidence in Latin texts, *or* they should begin with the evidence in Greek texts. Samuelsson, after noting this issue, then attempts to clarify my own “methodological” position by quoting two sentences from the book and then revealing the presuppositions in the second statement: The first, with the words Samuelsson does not quote in brackets, is: “[Against Samuelsson, however,] when the context of an account of suspension does not indicate any other mode of execution (including impalement) besides crucifixion, then it is fair to assume that crucifixion is the mode of death, given the linguistic usage in texts of the Roman era.”⁶ This sentence followed the description of four markers of crucifixion that Heinz-Wolfgang Kuhn posited: “suspension,” “completed or intended execution,” “with or without a crossbeam,” and “an extended death struggle.”⁷ Samuelsson notes four assumptions that he finds in my monograph⁸:

A) The setting in which crucifixion first was widely used and became famous was the ancient Roman world. Latin became both the definer of, and the vehicle for, the notoriety of crucifixion. B) It is possible to determine the meaning of certain words and tie them di-

<http://bmcr.brynmawr.edu/2017/2017-01-19.html>, D. Tombs, *The Bible and Critical Theory* 13 (2017) 103–7, S. Asikainen, *Teologinen Aikakauskirja* 122 (2017) 188–189, W. Carter, *Interpretation* 71 (2017) 338–9, T. Witulski, *HZ* 305 (2017) 496–7, H. Schwier, *JLH* 56 (2017) 86–7.

⁴ Samuelsson, rev. of Cook, 331.

⁵ J. G. Cook, review of G. Samuelsson, *Crucifixion in Antiquity. An Inquiry into the Background and Significance of the New Testament Terminology of Crucifixion*, WUNT 2/310, Tübingen 2013 in: RBL (04/2014) http://www.bookreviews.org/pdf/9718_10735.pdf.

⁶ Samuelsson, rev. of Cook, 330, with ref. to Cook, *Crucifixion*, 2. For the second statement, cf. objection four below.

⁷ H.-W. Kuhn, *Die Kreuzesstrafe während der frühen Kaiserzeit. Ihre Wirklichkeit und Wertung in der Umwelt des Urchristentums*, ANRW II/25.1 (1982) 648–793, esp. 679. Cf. Cook, *Crucifixion*, 2.

⁸ Samuelsson, rev. of Cook, 330.

rectly to crucifixion. The occurrence of one⁹ such defined word is sufficient to label the text as a crucifixion account. C) Impaling did not occur or at least was very rare, which leads to the conclusion that texts containing assumed crucifixion terminology depict crucifixion. D) Impaling was a swift killer. If a victim is alive while suspended, e.g., is talking or expressing agony, it is a crucifixion at hand.

In general, these are fairly accurate, although “C” needs a bit of modification. Crucifixion terminology “probably” indicates a crucifixion unless there is explicit mention of an impalement (as in the texts of Seneca in which he uses *stipes*).¹⁰

Before responding to Samuelsson’s critique in detail, it may be useful to look at the global argument he formulates in his review. The British empiricists often appealed to what has come to be identified as the “argument from illusion,” in which one sought to replace language about objects (or the “external world”) with language about immediate and incorrigible “sense data” by appealing to certain illusions of perception. The sceptic concludes that “variation in our perceptual experience undermines all claims to know the world based on sense experience. Doubt about some contaminates all.”¹¹ Samuelsson uses a very similar argumentative structure: if one can create a small doubt with regard to the meaning of the vocabulary in a given Roman text that is normally thought to refer to a crucifixion of some variety (vertical pole, pole with horizontal cross bar or *patibulum*, tree, etc.), then one can no longer describe a text as referring to Roman crucifixion. To know that a text refers to crucifixion, all four markers must be explicitly present. In his monograph Samuelsson sought to create doubt by hypothesizing that impalement or even hanging¹² could be envisioned by the author in question. The doubt then results in a step back from crucifixion language on the part of the scholar to indeterminate “suspension language,” just as the empiricists tried to convince their readers to cease speaking about “objects” and commence using the language of “sense data.” A. J. Ayer pointed out, after a discussion of sceptics who question the justification for believing in the existence of physical ob-

⁹ This is a misunderstanding of linguistic methodology on Samuelsson’s part. A word such as *crux* in one particular text (*parole* in Ferdinand de Saussure’s terminology) gets its meaning from its usage in the entire Latin language (*langue*) where polysemy (multiple meanings) is possible. Cf. K. Baldinger, *Semantic Theory. Towards a Modern Semantics*, Oxford 1980, 15 and F. de Saussure, *Cours de linguistique générale*, Paris 1916, 32–40.

¹⁰ Cook, *Crucifixion*, 3 (and references there).

¹¹ I owe this formulation to Ian Morton (communication of 20 July 2018). Cf. A. J. Ayer, *The Problem of Knowledge*, Baltimore, MD 1956, 85–95, L.-G. Nilsson, *Perspectives on Memory Research. Essays in Honor of Uppsala University’s 500th Anniversary*, Hillsdale, N.J. 1979, 180–2, G. Dicker, *Perceptual Knowledge. An Analytical and Historical Study*, Dordrecht 1980, 26, and J. Troyer, In *Defense of Radical Empiricism, Essays and Lectures* by Roderick Firth, Oxford 1998, 193–203 (“Austin and the Argument from Illusion”).

¹² Samuelsson, *Crucifixion*, 28–9, 149, 175, 197 and cp. Cook, rev. of Samuelsson, *Crucifixion*.

jects, other minds, and the past that “... if there cannot be a proof, it is not sensible to demand one. The sceptic’s problems are insoluble because they are fictitious.”¹³ Similarly, Samuelsson is demanding that only what is “incorrigible” (that is, no errors possible) is acceptable – much like the sceptic responsible for an argument from illusion with regard to perception. And even the four markers for a crucifixion are not ultimately “incorrigible,” since even if all are present in an account, one can still doubt if a crucifixion ultimately took place (and not an accidental death due to other factors such as being burned to death, being killed by a sword, or being killed by a wild animal).

There is no evidence that the Romans ever practiced hanging on the gallows, so that is a red herring.¹⁴ In addition, the only two texts that explicitly specify that the Romans practiced impalement are in Seneca, and he is careful to use the word *stipes* to refer to the object used for impaling a victim.¹⁵ The only other explicit references to impalement in Greco-Roman texts, of which I am aware, refer to practices of non-Roman peoples.¹⁶ Consequently, Samuelsson’s continued insistence that *crux* can refer to impalement when there is no explicit indication in the text is just another red herring that can be dismissed with a high degree of confidence. It is part of his “argument from illusion” (just like the suspicion that *crux* and other terms associated with crucifixion might refer to hanging at certain points). The fact that Justus Lipsius¹⁷ in his *De cruce* shows a victim impaled vertically (*per obscena* [through the genitals or rectum]) throughout his body “alive and kicking” is, *pace* Samuelsson, of no evidential value whatsoever.¹⁸ Far more important is the judgement of modern biologists that such a practice would result in immediate death due to the volume of blood lost.¹⁹ There are no other known forms of impaling in ancient Rome. Seneca’s reference to Maecenas’s wish to sit on the sharp cross (*hanc mihi vel acuta / si sedeam cruce sustine*) is almost certainly not a reference to impalement since (as noted below in the monograph), Seneca envi-

¹³ Ayer, *The Problem of Knowledge*, 81. I thank Ian Morton for noting this text for me (21 July 2018).

¹⁴ Cook, *Crucifixion*, 3–4. Suicide was another matter, of course.

¹⁵ Cf. Cook, *Crucifixion*, 2, 3, 26, 35, 71, 96–8.

¹⁶ See the references in Cook, *Crucifixion*, 256–7, 304–6. In his review (331), S. refers to LSJ’s entry on ὀσχεύς (“spine, backbone”) and Hesychius Lexicon Σ § 1072 σκολοψιν ὡς ὀπτῶσιν (cf. Cook, *ibid.*, 304) to show that impaling in Roman practice could be survived. This is erroneous, however, because the Greek authors refer to a punishment that was never used historically in Greece (for refs., see Cook, *ibid.*, 304–5 and the comments of M. Halm-Tisserant, *Réalités et imaginaires des supplices en Grèce ancienne*, CEA 125, Paris 1998, 13–5, 26, 162).

¹⁷ J. Lipsius, *De cruce libri tres: Ad sacram profānamque historiam utiles; Unā cum notis*, Antwerp 1593/1594, 23 (Leiden 1595).

¹⁸ Samuelsson, rev. of Cook, 331.

¹⁹ Cf. Cook, *Crucifixion*, 3.

sions Maecenas suspended from a horizontal *patibulum*.²⁰ It is also probably not a reference to a *sedile* (seat) that pierces the male victim's perineum (or rectum), because that also would cause nearly immediate death due to the volume of blood loss.²¹ The occasional use of *sedilia* in Roman crucifixions is, however, perhaps confirmed by the graffito of Puteoli (figures five and six) in which Alkimilla appears to straddle a small peg, part of the "painful" or "sharp" cross.²²

Samuelsson's main comments and objections follow:

1. "C. outlines the meaning of *patibulum* as 'crossbeam' ... C. argues that *σταυρός* outside the New Testament clearly signifies a cruciform shape, thus 'cross' while *σταυρός* within the Gospels means 'crossbeam' *patibulum*."²³

Response: These are oversimplifications of my views. For details, interested readers should consult the introduction. *Patibulum* usually does mean "crossbeam," but there is also a *pars pro toto* ("part for the whole") usage in which it stands for the T-shaped cross (or something similar). And while *σταυρός* (*stauros*) can often mean a T-shaped object (or something similar), it also can certainly stand for vertical pole, or in some cases (as in John 19:17), it is the translation (by synecdoche) adopted by the Gospel authors for *patibulum*, "crossbeam."

2. "The book lacks at large a methodological positioning."

Response. The introduction provides forty-seven pages of close linguistic evaluation of the terms usually taken to refer to crucifixions or related punishments. That research is the fruit of a number of years of careful reading of the Greek and Latin texts that use what has been traditionally taken to be crucifixion language. Methodologically, if the results are correct, then texts which use those terms do actually refer to crucifixions and not simply im-

²⁰ Cook, Crucifixion, 101.

²¹ Such a move is not available to Samuelsson who claims (Crucifixion, 5) "neither Lipsius nor the ancient authors mention any *sedile* in this sense [i.e., in the middle of the cross]"; cp. 191 ("the origin of the label *sedile* in the sense of a sitting device on a suspension tool is unknown to the present author"), 288, 290, 292–4, 295 ("When it comes to the commonly mentioned wooden seat (*sedile*) there is not one single text that tells of any such thing ... The closest is the mention of a pointed *crux* by Seneca the Elder [*sic*] (Sen. *Epist.* 101.10–11), but to interpret this as a support for a *sedile* is difficult"). The first extant use of the term is Tert. Nat. 1.12.4 (cf. Cook, Crucifixion, 7, 35–6 [see Justin, Irenaeus, and Tertullian on the seat included on some Roman crosses, which they would have observed, since crucifixion was still practiced in II–III C.E.], 101).

²² Cf. Cook, Crucifixion, 101, 427. Felicity Harley-McGowan is cautious: "Something like this may be inferred in the depiction of the lines between the legs of the crucified victim in the Puteoli graffito, but there is not enough clarity to sustain the idea with any certainty" (The Alexamenos Graffito, in: The Reception of Jesus in the First Three Centuries, ed. C. Keith, H. Bond, and J. Schröter, Bloomsbury T & T Clark, forthcoming).

²³ Samuelsson, rev. of Cook, 330. I will discontinue footnotes to his review at this point, since it is only two full columns long in the *TLZ*.

palements or hanging or the other red herrings that Samuelsson used to create uncertainty in scholars' (and lexicographers') minds using his "argument from illusion." I started, for example, with the standard "hypotheses" about the meaning of *crux* (such as the lemmas in the ThLL and the OLD s.v. *crux*), proceeded to textual analyses, which were the "tests," found no evidence inconsistent with the hypotheses, and then wrote the material in the introduction about *crux*.²⁴

3. "... assumptions C and D are to some extent contradictions."

Response. This is incorrect from the perspective of elementary logic, in which two propositions contradict each other only if they are in the form of "p" and "not-p," or if together they imply "p" and "not-p." Two propositions either contradict each other or do not, not to "some extent."²⁵ Samuelsson fails to show that C and D contradict each other. The apparent rarity of impalement in the Roman republic and imperium according to the extant evidence is a historical fact (if correct), however easily one might impale a human being vertically on a sharpened stake.

4. The next objection is:

A weightier example [than the alleged contradiction in "3"] is found in the introduction where a characteristic sentence illuminates two potential weaknesses with C.'s book: 'In historical research one often has to settle for evidence that is less than impeccable, and since crucifixion belonged to Roman daily life authors of that period did not need to spell out the details for their audiences – details which could be taken for granted' (49). First, evidence which is not impeccable is not evidence.²⁶ It is rather an *indicium* or *circumstantial* [S.'s italics] evidence.

Response. Samuelsson's term "circumstantial evidence" is a strange use of the concept, at least in current English usage, where it refers to a prosecutor's (or detective's) lack of eye-witnesses to a crime.²⁷ *Indicium* is a term from the ancient rhetoricians. Quintilian, for example, uses the word in what is presumably its characteristic sense:

The Latin equivalent of the Greek σημεῖον is *signum*, a sign, though some have called it *indicium*, an indication, or *vestigium*, a trace. Such signs or indications enable us to infer that something else has happened; blood for instance may lead us to infer that a murder has taken place. But bloodstains on a garment may be the result of the slaying of a victim

²⁴ O. Hey, *crux*, Thesaurus Linguae Latinae [ThLL], vol. I –, Leipzig/Berlin 1900 –, IV.1255.7–1260.26. "OLD" is P. G. W. Glare, ed., Oxford Latin Dictionary, Oxford 1982.

²⁵ Cf., e.g., B. Garrett, *Elementary Logic*, New York 2012, 17–8.

²⁶ This is actually an example of a logical contradiction, and S. created it.

²⁷ Cf., e.g., S. H. James, J. J. Nordby, and S. Bell, *Forensic Science. An Introduction to Scientific and Investigative Techniques*, Boca Raton, FL 2014, 28 ("It is important to understand that forensic evidence is circumstantial evidence" [e.g., DNA, etc.]), 566 ("Evidence requiring the trier of fact to infer certain events – for example, linking a defendant to a crime scene (and ultimately to the crime) via DNA, hair, fiber, glass, footprint, fingerprint, or ballistics evidence").

at a sacrifice or of bleeding at the nose. Everyone who has a bloodstain on his clothes is not necessarily a murderer.

*Signum vocatur, ut dixi, σημεῖον (quamquam id quidam indicium, quidam vestigium nominaverunt), per quod alia res intellegitur, ut per sanguinem caedes. At sanguis vel ex hostia respersisse vestem potest vel e naribus profluxisse: non utique, qui vestem cruentam habuerit, homicidium fecerit.*²⁸

Kuhn's four markers that both Samuelsson and I have accepted are, however, *indicia* by Quintilian's definition. The historian can never escape the use of what a modern individual might call "forensic evidence." Even if an author, such as Plautus, lists all four markers in a text, one can imagine (i.e., it is logically possible) that a bear in the arena escaped its handlers and came along and ripped the throat out of the "intended victim of crucifixion."²⁹

The (in my view) questionable historical methodology inherent in Samuelsson's demand that all four markers be present for a scholar to describe a given text as a crucifixion may be illustrated by a text of Plautus's *The Ghost*, where a slave named Tranio is looking for someone who will agree to be executed in his place:

Who could bear to be tortured instead of me today? ... I'll give a talent to the chap who first makes a sally onto the cross [*crux*]; but on this condition: that his feet and arms are nailed down [or "attached"] double.

*Qui hodie sese excruciari meam ui<cem> possit pati? ... Ego dabo ei talentum primus qui in crucem excucurrerit; / sed ea lege, ut offigantur bis pedes, bis brachia.*³⁰

Samuelsson claims, in his treatment of the passage:

First, the text does not say explicitly that the punishment at hand is a crucifixion in a traditional sense. It shows that Plautus could imagine a punishment form in which a victim was somehow attached with arms and legs to some kind of punishment tool called *crux*. Second, the text does not say that the punishment which the reader gets a glimpse of in this text is a faithful representation of all other *crux*-punishments of Plautus' text. This might be the case, of course, but the text material does not contain enough indications to draw the conclusion that this is the case.³¹

One need not wonder just what the skeptical Samuelsson would need for Plautus to say for him to willingly label Tranio's demand as a "demand to be crucified in my place" – Plautus would have to include all four markers, or he (via one of the *dramatis personae*) would need to say in an aside, "this is a

²⁸ Quint. 5.9.9, trans. of Quintilian, *Institutio oratoria*, ed. and trans. H. E. Butler, vol. 2, LCL, Cambridge, MA 1921, 199. Cp. H. Lausberg, *Handbuch der literarischen Rhetorik. Eine Grundlegung der Literaturwissenschaft*, Stuttgart ³1990, § 358.

²⁹ Cf. the mime "Laureolus" below (200–1).

³⁰ Plaut. *Most.* 355, 359–60. Trans. of Plautus, 5 vols., LCL, ed. and trans. W. de Melo, Cambridge, MA 2011–3, 3.351. Cf. pp. 49–50, 56 below.

³¹ Samuelsson, *Crucifixion*, 173.

crucifixion in the traditional sense.”³² Romans knew that slaves were often crucified. The overwhelming evidence may be found in the volume that follows.³³ One can, with Descartes, probably doubt anything except the existence of himself or herself as a thinking being,³⁴ and Hume even doubted the existence of a substantial self.³⁵ Samuelsson’s doubts are simply a reduction to absurdity of his own methodology. The evidence for a reference to crucifixion that I find in this passage of Plautus is superb in my view, given the frequency of crucifixions of slaves (in history and fiction) in ancient Rome. To my knowledge, *crux* does not ever *explicitly* refer in classical Latin literature to any form of punishment that does not involve the suspension and execution of a victim, although it may be combined with other punishments as in the case of the mime “Laureolus” and the execution of the Christians by Nero.³⁶ In his entire volume, Samuelsson fails to find even one use of *crux* that refers *explicitly* to a punishment other than crucifixion.³⁷

5. It is best if I quote the following objection in full:

Second, (assumption A and B above) the last part of the quote³⁸ is based on an *if*, albeit cloaked under a *since*: *If* crucifixion belonged to Roman daily life – then it is possible to postulate that this is the reason why the texts are not more informative. But the *to be* or *not to be*, combined with the *how*, of crucifixion in the Roman society appears to be one

³² Philosopher Ian Morton (personal communication of 19 July 2018) makes this point: “If the only facts, observations, findings, testimony, data, etc., which count as evidence are those which entail the truth of the conclusion, then the law courts waste a huge amount of time considering material which is not, and never was, evidence in that sense. Each element considered by the court might well not prove guilt or innocence on its own, but is properly regarded as evidence.”

³³ Cf. the index, s.v. “crimes/disobedience of slaves” and “crucifixion/of slaves” and in particular the *lex Puteolana* discussed in chapter five. See also J. G. Cook, Augustus, R. GEST. DIV. AUG. 25,1: TRIGINTA FERE MILLIA CAPTA DOMINIS AD SUPPLICIUM SUMENDUM TRADIDI, ZPE 201 (2017) 38–41.

³⁴ Renati Des-Cartes, *Meditationes de prima philosophia, in qua Dei existentia, & animæ immortalitas demonstratur*, Paris 1641, 21, Medit. 2. [Even if an evil deceiver could cause Descartes to doubt everything, one certainty is left]: *Cogitare? Hic invenio: cogitatio est; haec sola a me divelli nequit. Ego sum, ego existo: certum est* (To think? This I discover: it is thought, this only cannot be torn away from me. I am, I exist, it is certain).

³⁵ D. Hume, *A Treatise of Human Nature*, ed. with an analytical index by L. A. Selby-Bigge, rev. text with variant readings by P. H. Nidditch, Oxford 1978 [first ed. of Book I, 1739], 252 (§ 1.4.6 “Of Personal Identity”): “For my part, when I enter most intimately into what I call *myself*, I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never catch *myself* at any time without a perception, and can never observe anything but the perception.” I thank Ian Morton for his comments on this issue.

³⁶ On Nero, cf. 191–2 below. For Laureolus, see 200–1.

³⁷ This thesis about *crux* is also the conclusion of Claire Lovisi, a historian of Roman law. Cf. p. 381 below.

³⁸ Cf. objection § 4 above for the quotation.

of the basic questions of the book, that is, something that should be resolved in the conclusion. Is it not then a bit odd to use that aim – to show that crucifixion belonged to Roman daily life – as an argument for a conclusion in the very beginning of the book? The danger of circular argumentation is imminent, if one selects a word on basis of its assumed meaning, then decides what it means, next searches for texts that contain the word, and finally studies what the word means.

Response. Although I included the linguistic material in the introduction first, it is – of course – based on a close study of the entire tradition available to me in Latin and Greek. Samuelsson's claim that there is a danger of circular reasoning is specious. One, as noted above, begins with a hypothesis about the meaning(s) of a term based on hundreds of years of lexicographical research (e.g., the ThLL, OLD and predecessors), then one analyzes the texts looking for disconfirming evidence, and finally one produces an introduction such as I have done. Consequently, although Samuelsson wants to call "A" and "B" *assumptions*, they are actually the conclusions of years of labor. I thought it best, and still believe, that these results should be placed in the introduction. The frequency of words such as *crux* and *crucifigo* in Latin texts of many varieties (fiction, poetry, and history) indicates the probable frequency of crucifixion in Roman life, and this is not contradicted by the evidence in Greek. Samuelsson's own failure in his monograph, and apparent continued unwillingness, to begin with the Latin evidence is (in my view) the fundamental weakness of his methodology.

6. With regard to impalement, Samuelsson asks "What happens (assumption D above) if it turns out that some forms of impaling might be survivable?"

Response. I have dismissed this possibility above (p. xix), since it is based on a misunderstanding of the Greek evidence.

7. With regard to suspension, Samuelsson asks,

Why (assumption C above) are there only two suspension options? How about suspension on a board, on a wall, on a statue, on a tree, on a trunk? There are several different punishment forms that could be described with "crucifixion terminology." Is it possible to conclude that only two suspension forms occurred throughout antiquity? This, in my opinion, is a misleading simplification. The step from *if* to *since* is vast. It is enough that one of these examples of foundational *ifs* is shown inaccurate to considerably weaken the basic argumentation of the book.³⁹

Response. I do not doubt that there were many suspension options, although I have no explicit evidence that Romans suspended victims on a wall or board.⁴⁰ One finds such evidence in Greek texts describing non-Roman practices. If the Romans suspended victims from trees, statues, etc., then there is no evidence that Samuelsson or I have found that indicates they used anything other than the language of crucifixion to describe that form of execution.

³⁹ These two last statements of S.'s are a prime example of his "argument from illusion."

⁴⁰ For exposure on a board in the Greek world, cf. Cook, *Crucifixion*, 13–5.

Samuelsson's refusal to recognize that crucifixion was almost certainly a staple of Roman daily life ("the step from *if* to *since* is vast") illustrates the weakness of his own philological and historical method, in my view. The evidence for the position I take is relentless and depressing. Here I will generalize a statement published by Géza Vermès a month before his death (which I quote on p. 418 below in its original form):

The trouble with the method of Samuelsson and of similar sceptics is that ... they sit at their desks and absorb the smallest details discoverable in books but have no time or inclination to face up to reality. Mediterranean authors during the imperium knew what crucifixion was from eyewitness experience.

8. Samuelsson's last objection is that I restart the argumentation several times, that there is repetition in the book, and that this "affects the reading negatively." I do not regret including a review of historical crucifixions in Rome (chapter two) after a review of crucifixions in Latin texts, even though the second chapter is an expansion of an earlier article. I attempted not to repeat texts in the first two chapters. The fifth chapter on law inevitably entailed some textual repetition. But in general, I will concede this point to Samuelsson.⁴¹

I doubt that these eight pages of response to Gunnar Samuelsson are very profitable for the general reader, but perhaps they are necessary for the specialist who is interested in the nuances of argumentation about a topic that is, by its very nature, of central importance for those interested in early Christianity and the history of one of the darkest corners of the Roman imperium.

Michel Gourgues, in two very detailed reviews for which I am grateful, perceptively notes that the material on crucifixion vocabulary in the introduction actually is dependent on the material in the first three chapters. He argues that the introduction should, consequently, constitute a fourth chapter.⁴² His insight is important, although the material in the introduction actually depends on the research in the fifth and sixth chapters also.⁴³ Consequently, it would really be the conclusion as Samuelsson noted. Although I considered that option very briefly for the second edition, I determined that for the general reader (and specialist) it is far easier to present the lexical results first. More seriously, perhaps, he questions whether Maecenas's *acuta si sedeam cruce* (and Seneca's references to Maecenas) might not refer to a form of impalement that was inflicted gradually.⁴⁴ Here one can only refer to what the sources ac-

⁴¹ Asikainen, rev. of Cook, Teologinen Aikakauskirja, 189 also notes the book's repetitive features. I am grateful for colleague Esko Ryökäs's translation of the Finnish review.

⁴² Gourgues, rev. of Cook, RB 2016a, 296, ScEs, 2016b, 428.

⁴³ For example: the *lex Puteolana* (*crux* and *patibulum*) in chapter five is crucial, as is the detail that Jesus (or Simon of Cyrene) carried the σταυρός (*stauros*) = *patibulum* in chapter 6.

⁴⁴ Gourgues, RB 2016a, 296–7, ScEs, 2016b, 428.

tually say, not to what they do not say. Seneca is the only author to describe the details of a Roman impalement, and they are so extremely violent that one could not survive more than a few minutes (if that long). And he uses *stipes* and not the terms *crux* and *patibulum* that appear in his discussion of Maecenas. In addition, Justin, Irenaeus, and Tertullian, along (presumably) with the image of Alkimilla, all envision a small “horn” (κέρας) or *sedile* which the victim straddles while being crucified.⁴⁵ That is almost certainly Maecenas’s reference.

David Tombs also refers to Seneca’s two texts about impalement and argues that the *sedile* in the case of Maecenas “could be used to anally impale a victim.”⁴⁶ But Seneca insists that a *patibulum* was present, and it is highly probable that, as noted above, he envisions Maecenas sitting on the same kind of object that Alkimilla straddles (*suffigas licet et acutam sessuro crucem subdas*). It cannot be a vertical impalement, since Seneca states that he was suspended, stretched out on a *patibulum* (*patibulo pendere districtum*).⁴⁷ The scientists (biologists) at my institution insist that impaling a victim brings nearly immediate death due to blood loss (wherever in the groin one impales them). Consequently, given the lack of positive evidence for anal impalement by a *sedile* in Greco-Roman texts⁴⁸ and given the positive evidence from Justin, Irenaeus, Tertullian, and the Alkimilla graffito for a *sedile* which one straddles, Tomb’s contention that crucifixion included rape by a *sedile* should be rejected. More interesting, in my view, in Tombs’s review and article is his insistence that nudity on a cross was sexually humiliating. This needs more nuance, however. Christopher Hallett argues that the stripping of Roman prisoners to be executed “intensified [their] public degradation.”⁴⁹ The Greek

⁴⁵ Justin Dial 91.2, Iren. 2.24.4, Tert. Nat. 1.12.3–4, fig. 5–7 (Alkimilla). Cf. the discussion above and the texts in Cook, Crucifixion, 7, 35–6.

⁴⁶ Tombs, rev. of Cook, Bible and Critical Theory, 105. Cf. D. Tombs, Crucifixion, State Terror, and Sexual Abuse, USQR 53 (1999) 89–109, esp. 101–2 where, however, he refers to Sen. Dial. 6.20.3 (which as noted above is vertical impalement *per obscena*).

⁴⁷ Cf. Crucifixion, 100–1 below.

⁴⁸ Tombs believes such a form of impalement would be survivable.

⁴⁹ C. Hallett, The Roman Nude. Heroic Portrait Statuary, 200 BC–AD 300, Oxford 2005, 63–4. His references are numerous and important. Sen. Contr. 9.2.21 (“commands given to the lictor” including *despolia* [strip, despoil] prior to scourging and execution); “stripping the victim” for scourging prior to execution: Liv. 2.5.8 (*nudatos virgis caedunt* [they beat them, stripped, with rods]), Plutarch Publ. 6.4 (περιεσθρήγνυσον τὰ ἱμάτια [“they tore off their himatia/togas]), Liv. 28.29.11 (*nudi*), Dion. Hal. 20.16.2 (γυμνοί [nude]), Suet. Nero 49.2 (*nudi* and beaten to death on a *furca* [fork]; an ancient punishment occasionally found in the imperium – Tac. Ann. 2.32.3 [*more prisco* (ancient custom)], Suet. Claud. 34.1 [*antiqui moris supplicium* ... *deligatis ad palum noxiis carnifex deesset* (punishment according to ancient custom ... the criminals being bound to the stake, no executioner was present)], Dom. 11.2–3 [*more maiorum puniendi condemnarentur* (they were condemned to be punished according to the custom of the ancients)]). Hallett also notes stripping increased the prisoner’s “vulnerabil-

word (γυμνός *gymnos*) Artemidorus uses in his book on dream interpretation for crucified individuals (Onir. 2.53), does not necessarily mean “completely nude.”⁵⁰ Felicity Harley-McGowan, following a contention of Christopher H. Hallett, writes that those depicted as *nudus* in ancient sources, usually “retained an undergarment, the *perizōma*” (περιζῶμα).⁵¹ In the Palatine graffito, the donkey man wears a short tunic that exposes part of his buttocks, but Alkimilla appears to be entirely nude in the graffito of Puteoli.⁵² One of the earliest surviving depictions of Christ crucified (preserved on the Pereire gem) shows him fully nude, and there is no surviving evidence to suggest that Jesus was depicted completely nude on the cross before the middle ages.⁵³ Exposure on the cross, even in a loincloth, was presumably humiliating.⁵⁴

James H. Dee astutely remarks that I consulted a wide variety of experts, including in particular Kathleen M. Coleman. What I understand of Latin lexicography is due to her kind tutelage.⁵⁵ Dee argues that “it would have been good to have more classical period illustrations (for example, gems).” There are no more illustrations I am aware of from the imperium. Most of the gems are from late antiquity (IV C.E. and later). Harley-McGowan has published them all in her article on the Constanza carnelian, and she has nearly finished a monograph concerning all of the most ancient images of crucifixion, many of which are preserved on engraved gemstones.⁵⁶ Dee also writes that “a line

ity”: Cic. Verr. 2.5.161 (*foro medio nudari ac deligari et virgas expediri iubet* [Verres ordered that he be stripped and bound in the middle of the forum and that rods be prepared]), Petr. 30.7 (*servus ... despoliatus* [a stripped slave]).

⁵⁰ Tombs, Bible and Critical Theory, 105–6, idem, Crucifixion, 102–5. Cp., however, Cook, Crucifixion, 192–3.

⁵¹ Harley-McGowan, The Alexamenos Graffito. Cf. Hallett, The Roman Nude, 61. Plutarch Rom. 21.7 describes the nudity of the Lupercals with ἐν περιζώμασι γυμνοί (naked [*gymnoi*] in *perizōmata*). Cf. Hallett, *ibid.*, 63 for an illustration of such a Lupercal. Both Greek words are used to describe the clothing of individuals in a number of texts including Polybius frag. 196 Büttner-Wobst, Nicolaus frag. 91 FHG (twice), Strabo 15.1.73, and Plutarch Aetia Romana 280B. In Pausanias 1.44.1, however, an individual ran *gymnos* without a *perizōma*.

⁵² On the tunic and the frontal presentation of the image, cf. Harley-McGowan, The Alexamenos Graffito.

⁵³ For discussion, see F. Harley-McGowan, Jesus the Magician? A Crucifixion Amulet and its Date, in: *Magical Gems in Context*, Proceedings of an International Conference 16–18 Feb, 2012, Budapest, Museum of Fine Arts, ed. Á. M. Nagy, J. Spier, and K. Endreffy, Reichert Verlag, forthcoming. Cf. Cook, Crucifixion, figures 5–7, 10, 14 for the images.

⁵⁴ Cf. Harley-McGowan, The Alexamenos Graffito: “all Romans associated crucifixion with shame and humiliation.”

⁵⁵ Dee, rev. of Cook, BMCR. In addition, all my scholarly life I have been indebted to the courses in semantics, text linguistics, and linguistics I took with David Hellholm (emeritus of Oslo) and the late Hendrik W. Boers (Emory).

⁵⁶ Cf. F. Harley-McGowan in the bibliography below. The monograph builds on her Ph.D. dissertation (Adelaide), also referenced in the bibliography.

drawing for the Palatine graffito ... would clarify the scratchy photograph.”⁵⁷ I have included such a drawing (figure 10 bis) in the second edition. Zdisław J. Kapera made the sensible suggestion that I gather “all the archaeological data into one compact chapter ... the information is too scattered.”⁵⁸ Kapera reveals one of my weaknesses: I simply am not qualified to write a full chapter on the images, and for that I would encourage interested scholars to read through the full range of Harley-McGowan’s publications, an expert in ancient images of crucifixion.⁵⁹

There are clearly weaknesses in the monograph. Angela Standhartinger remarks that “more discussion on context, on dating, and on the literary and historical integration and history of interpretation of the texts” would have been desirable.⁶⁰ Doubtless she is correct, although the monograph would have been many hundreds of pages longer, and it is already reader-unfriendly enough. James Carleton Paget notes that my book “bears little resemblance to Hengel’s much shorter, but more invigorating, book of almost forty years ago.” Absolutely.⁶¹ Stefan Schreiber writes that it would have been helpful to emphasize the relationships more strongly between the material and the Passion narratives. He does concede that the “material establishes a basis for further social-historical and theological reflection on Roman crucifixion in general and the death of Jesus in particular.”⁶² Chapter six probably should have been longer, but that need has now been admirably met by the monograph of Chapman and Schnabel. Chapman, a kindred spirit in this field,⁶³ also argues that “more could be drawn out from the individual sources and their contexts, especially concerning the standpoint of the author and intended readers toward the victim and punishment.” I concede that point – but that would have lengthened the manuscript considerably. He would place chapter two after chapter three, which would have made good sense. One point of philology he argues is that the *Consonants at Law* (the *Iudicium vocalium*) attributed to

⁵⁷ In defense of the photograph provided by the Soprintendenza: graffiti are by nature often difficult to make out even when one is standing in front of them.

⁵⁸ Kapera, rev. of Cook, Polish Journal of Biblical Research, 226.

⁵⁹ Here one should also mention the early chapters in R. Jensen, *The Cross. History, Art, and Controversy*, Cambridge, MA 2017.

⁶⁰ Standhartinger, rev. of Cook, TRev, 121.

⁶¹ Carleton Paget, rev. of Cook, JEH, 850–1 (with ref. to M. Hengel, *Crucifixion in the Ancient World and the Folly of the Message of the Cross*, Philadelphia 1977).

⁶² Schreiber, rev. of Cook, BZ, 149. In this regard, T. Witulski, rev. of Cook, HZ, 497 notes that much less material from Roman and Jewish sources would have been needed to establish “the interpretive background for the texts and theology of the NT.” Schwier, rev. of Cook, JLH, 87 also notes the monograph comprises “occasions for further theological work.”

⁶³ Along with specialists including Jean-Jacques Aubert (crucifixion and Roman Law), Kristan Foust Ewin (exposition, crucifixion, and other similar punishments in the Near East, Greece, and Rome), Felicity Harley-McGowan (art history), Robin Jensen (art history), and Gunnar Samuelsson.

Lucian “could well be pseudepigraphic according to Harmon.”⁶⁴ He is correct that such a position could be important for my research. In my review, however, of the monograph he wrote with Schnabel, I argued that his position (and that of the Loeb editor and translator) “goes against the grain of modern scholarship.”⁶⁵ Boris Paschke notes the Roman material in the second chapter, but regrets that I make no attempt to develop a general history of crucifixion.⁶⁶ Michel Matter believes (presumably because of the data in my monograph) that the origins of crucifixion are in the Orient (Persia), but probably came to the Romans via Carthage. That is certainly possible, but I am unsure even of the truth of this statement.⁶⁷ At this time I still do not believe a history of Roman crucifixion to be possible.⁶⁸

Giuseppe Ghiberti, in his fairly lengthy review, objects to my statement that the Shroud of Turin is “apparently a medieval forgery.”⁶⁹ Msgr. Ghiberti, at one time president of the Turin diocesan commission on the Shroud and professor of Sacred Scripture at the Facoltà Teologica dell’Italia Settentrionale, argues in his review that the “procedure that resulted in the origin of the object and even more the motivations for the origin of the Shroud are completely unknown.”⁷⁰ I realize there are Catholic, Orthodox, and Protestant Christians who are Shroud enthusiasts and do not wish to anger them.⁷¹ But

⁶⁴ Chapman, rev. of Cook, BBR, 592. Harmon’s argument is confined to one phrase: “This mock presentation, probably not by Lucian ...” (Lucian, 8 vols., LCL, ed. and trans. A. M. Harmon et al., Cambridge, MA 1913–67, 1.395).

⁶⁵ Cook, rev. of Chapman and Schnabel, JTS, 292. My reference there is: S. Swain, *HelLENism and Empire. Language, Classicism, and Power in the Greek World, AD 50–250*, Oxford 1996, 48–9. Swain refers to B. Baldwin, *Studies in Lucian*, Toronto 1973, 58: (“The parody is quite in the Lucianic manner with its travestied decree, the allotropes of legal phraseology, the high-flown rhetoric, jests and invective, and the deposition of false evidence”; and cp. n. 54: “Harmon offers no good reason for his view ...”) and H. Wolanin, *Problematyka językoznawcza w “Sądzie Samogłosek” Lukiana* [Linguistic Issues in Lucian’s *Court of the Vowels*], *Meander* 45 [1990] 3–11). For the key text, cf. Cook, *Crucifixion*, 5 (Lucian *Jud. voc.* 12).

⁶⁶ Paschke, rev. of Cook, *Soteria*, 46.

⁶⁷ Matter, rev. of Cook, *RHPR*, 477.

⁶⁸ A statement from my book (451) that Paschke quotes.

⁶⁹ Ghiberti, *Archivio Teologico Torinese*, 158.

⁷⁰ Ghiberti, *ibid.*, 158.

⁷¹ For an argument by a Jewish documentary photographer, who was a member of the Shroud research team of 1968, in favor of the Shroud’s authenticity, cf. B. M. Schwartz, *Five Reasons Why Some Christians are Shroud Skeptics*, *The City* 9 (2016) 67–73, esp. 71 “...science has proven the Shroud is *not* a manmade artwork.” On the other side of the aisle, the arguments of Robin Lane Fox (*The Unauthorized Version. Truth and Fiction in the Bible*, New York 1993, 250–1) are worth noting (e.g., “... radiocarbon dating” confirmed a “fourteenth-century date”; there is no record of the Shroud’s existence whatsoever until the 1350s; a bishop of Troyes claimed to have “found (so he said) the person who admitted faking it”; the image “... was artfully imprinted by a craftsman who used chemical compounds ... traces

no serious scholar could possibly consider using the controversial Shroud to do any kind of research on Roman crucifixion – the Shroud is for those of the Christian faithful who accept its authenticity.

I will conclude with some remarks Martin Hengel wrote me on 20 March 2009 – only a few months before his death. In the email, Hengel was objecting to Kuhn’s tendency to devalue the importance of the “historical cross” for understanding Paul’s theology of the cross. His last sentences were:

Auf dieser Grundlage [the work of Hengel, Kuhn, and Chapman] können Sie jetzt für die nächsten 100 Jahre eine umfassende Monographie zum Thema schreiben, wobei die theologische Bedeutung der paulinischen *theologia crucis* nicht unterschlagen werden dürfte. Ohne sie wird Paulus überhaupt unverständlich.

On this basis [the work of Kuhn, Hengel, and Chapman] you can now write a comprehensive monograph on the theme which will be valid for the next 100 years. Thereby, the theological relevance of Paul’s *theologia crucis* [theology of the cross] ought not to be suppressed. Without it, Paul becomes altogether incomprehensible.⁷²

Whether the monograph will stand for 100 years remains to be seen – *vita brevis, ars longa*. That is out of my hands. I must leave to experts in Pauline exegesis the task of relating this material to Paul’s theology of the cross. Although trained in exegesis, it was not my intention to write such a book. Those who have spent their scholarly lives writing on Paul are in a much better position to relate the historical material on Roman crucifixion to the understanding of Paul’s theology.

of his pigments have been found on threads of the cloth ... etc.” For a sceptical approach (by a former member of a Shroud team), cf. W. C. McCrone, *Judgment Day for the Shroud of Turin*, Amherst, NY 1999.

⁷² My thanks to Professor Jörg Frey for his suggestions for the translation.

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Introduction

Crucifixion Terminology

The New Testament's narrative of the crucifixion of Jesus of Nazareth and the accompanying *theologia crucis* (theology of the cross) or perhaps better *theologiae crucis* (theologies of the cross) motivate many of the studies on crucifixion in the Mediterranean world – as they do my own. One of the great humanists of the sixteenth century, Justus Lipsius, wrote a seminal work in 1593, a book written soon after he had reembraced the Catholic faith in 1591 under the influence of the Jesuits after a journey through Neostoicism.¹ The title, *De cruce libri tres: Ad sacram profānamque historiam utiles; Unā cum notis* (*Three Volumes on Crucifixion: useful for sacred and secular history; together with notes*),² indicates his continuing interest in humanist scholarship (a characteristic of the Jesuits), but his dedication to the reader and the first words of the book in which he prays to Christ that he may write what is true make his intentions clear.³ He does, however, indicate his historical method: *Siquid usquam praeter religionem moresque veterum, non agnosco ...* (I do not acknowledge anything at all except the religion and customs of the ancients ...). The book includes illustrations, and although later scholars argue with various aspects of his conclusions it remains a fascinating element in the man's vast scholarship. The illustrations are an element that has been omitted in many of the best modern studies of the theme – perhaps because they are not “objective” enough. Rather than use illustrations below of my own making, I will appeal to what archaeological evidence I have been able to find including graffiti, a fresco, the famous crucifixion nail in a *calcaneum* bone,

¹ He obtained a position at the University of Louvain in 1592. Cf. idem, *Politica*. Six Books of Politics or Political Instruction, ed. with trans. and intro. by J. Waszink, Assen 2004, 23 (and cf. the entire biographical section in *ibid.*, 15-23). Waszink (23) calls the book on the cross a work of “antiquarianism.”

² Published in Antwerp in 1593 (the edition used below was published in 1594 by the same printer in Antwerp).

³ Lipsius, *De cruce*, Ad lectorem and pp. 1-2. Cp. J. de Landtsheer, Justus Lipsius's *De Cruce* and the Reception of the Fathers, *Neulateinisches Jahrbuch* 2 (2000) 99-124, esp. 119 (on Lipsius's “approach of the ancient historian”) and F. P. Pickering, Justus Lipsius' *De Cruce libri tres* (1593) or The Historian's Dilemma, in: *Festgabe für L. L. Hammerich*. Aus Anlass seines siebenzigsten Geburtstags, Copenhagen 1962, 199-215 (esp. 202-3, on where the text belongs in Lipsius's historical study [*Ritualia-profana-publica*]).

and so forth (figures 1, 5-7, 10-14). It is not my intention to give a history of research on the topic. A partial attempt at such an exercise may be found in the able study by Gunnar Samuelsson whose work has served as a muse for my own semantic research.⁴ In my view the path breaking studies of August Zestermann in the nineteenth century remain some of the best material before the fine investigation of Heinz-Wolfgang Kuhn in the twentieth century.⁵ Martin Hengel's collection of data is also of great usefulness. A very welcome addition to the field is David Chapman's extensive survey of attitudes toward crucifixion in Hebrew and Aramaic literature of Second Temple and Rabbinic Judaism, which enabled me to write chapter four below.⁶

1 Definitions and Methodological Assumptions

The definition of crucifixion as "execution by suspension" is acceptable as long as one excludes impalement or hanging.⁷ Four markers of the execution that Samuelsson takes over from Heinz-Wolfgang Kuhn are important: "suspension," "completed or intended execution," "with or without a crossbeam," and "an extended death struggle."⁸ Against Samuelsson, however, when the context of an account of suspension does not indicate any other mode of execution (including impalement) besides crucifixion, then it is fair to assume that crucifixion is the mode of death, given the linguistic usage in texts of the Roman era.⁹ By "Roman era" I refer to the period beginning with the Second Punic war when the first historical crucifixions appear in Roman texts and ending with Constantine.¹⁰ There does not seem to be any overwhelming rea-

⁴ G. Samuelsson, *Crucifixion in Antiquity. An Inquiry into the Background of the New Testament Terminology of Crucifixion*, WUNT 2/310, Tübingen 2013, 2-24.

⁵ A. Zestermann, *Die Kreuzigung bei den alten*, *Annales de l'académie d'archéologie de Belgique* 24, 2^e série, tome quatrième (1868) 337-404 and *idem*, *Die bildliche Darstellung des Kreuzes und der Kreuzigung Jesu Christi historisch Entwickelt ...* Leipzig 1867. Cp. H.-W. Kuhn, *Die Kreuzesstrafe während der frühen Kaiserzeit. Ihre Wirklichkeit und Wertung in der Umwelt des Urchristentums*, ANRW II/25.1 (1982) 648-793 and M. Hengel, *Crucifixion in the Ancient World and the Folly of the Message of the Cross*, Philadelphia 1977 (cp. *La crucifixion dans l'antiquité*). S. Castagnetti, *Le leges libitinariae* flegree, Napoli 2012, 49-84, 103-14, 214 etc. is of fundamental importance.

⁶ D. W. Chapman, *Ancient Jewish and Christian Perceptions of Crucifixion*, WUNT 2/244, Tübingen 2008.

⁷ Samuelsson, *Crucifixion in Antiquity*, 19, 143, 262 (and cf. 261-70).

⁸ See Samuelsson, *Crucifixion*, 19, 29, 30 and Kuhn, *Die Kreuzesstrafe*, 679.

⁹ I am aware of no Latin texts, for example, in which *crux* was used for some kind of Roman exotic torture (and not execution) – the *arbor infelix* being the exception (with its distinct terminology). Cf. the discussion of Cicero's *Rab. perd.* below in § 3.7 and chapt 1 § 1.6.

¹⁰ Cp. chapt. 2 and J. G. Cook, *Roman Crucifixions: From the Second Punic War to Constantine*, ZNW (2013) 1-32.

son to assume that when a penal text indicates a person was suspended that any other method of execution was then subsequently used. That would be a needless and rather gratuitous exercise in interpretive futility and skepticism. What is logically possible in this context is not historically probable. An author narrating a past event (fictional or historical) is forced by the nature of language itself to choose the details the author has an interest in describing.

It is impossible, of course, to completely exclude impalement in all cases that use *crux*, *σταυρός* (*stauros*) and the associated verbs, but explicit impalement is (textually) rare as a Roman punishment. Seneca, for example, in one of his letters distinguishes the cross (*crux*) from the *stipes* used in impalement.¹¹ Physically it is not difficult to impale an individual lengthwise on a sharp stake.¹² My colleagues in biology assure me that such a stake could not possibly avoid fatally damaging vital organs and/or nicking the descending aorta or inferior vena cava, which would have caused a victim to bleed to death immediately.¹³ In Greek texts before the Roman era, however, that describe non-Roman penalties one cannot always assume that impalement is not the intended form of execution. Another form of execution that can be ruled out both during the Republic and the imperium is hanging, since it was used during neither period by the Romans.¹⁴ They did make use of garroting, how-

¹¹ Seneca, Ep. 14.5. Cf. chapt. 1 § 2.3. In Ep. 101.10-12 it is doubtful that impalement is the punishment, because Maecenas does not die immediately and in 101.12 prolongs his life hanging with his arms extended horizontally on a *patibulum*. Seneca includes impalement as a form of crucifixion in Dial. 6.20.3 *Video istic cruces, non unius quidem generis ... alii per obscena stipitem egerunt*. But even in that text he uses *stipitem* for the object used in impalement. See § 3.1.1, 4 below. In the revolt of Boudicca (60/61 CE), for example, the Britons suspended (*ἐκρέμασαν*) the elite Roman women of two captured Roman cities. Cassius Dio, however, uses the precise expression *πασσάλοις ὀξέει διὰ παντὸς τοῦ σώματος κατὰ μήκος ἀνέπειραν* to refer to their subsequent impalement with sharp stakes through the length of the entire body (Cassius Dio 62.7.2). Tacitus (Ann. 14.33.2), on the other hand, uses the vocabulary of crucifixion to describe the executions (*patibula ... cruces*) and not the vocabulary of impalement. Cp. chapt. 3 § 2.13 and chapt. 1 § 2.18.

¹² “Pressure (pounds per square inch or newtons/square meter) is the result of a force acting on a given area. Pressure (P), force (F), and area (A) are related by $P = F/A$. For a given force the resulting pressure varies inversely with the area. For example, a 150 lb person on a 1 square inch surface would have a pressure of 150 lb/in² exerted on the area in contact with the surface. If the contact surface area were reduced to 1/2 inch by 1/2 inch yielding a 1/4 in² surface the resulting pressure would be 150 lb/(.25 in²) = 600 lb/in². So the act of tapering the stake dramatically increases the pressure at the point of contact.” My thanks to colleague Professor Terry Austin for this calculation.

¹³ I thank Professors William Paschal, Melinda Pomeroy-Black, and Nickie Cauthen.

¹⁴ E. Cantarella, *I supplizi capitali in Grecia e a Roma*, Milan 1991, 185. Cf. J.-L. Voisin, Pendus, crucifiés, *oscilla* dans la Rome païenne, *Latomus* 38 (1979) 422-450, esp. 441. Of 410 cases of suicide between 509 B.C.E. and 235 C.E., Voisin finds only six cases of hanging (ibid., 426). Cp. S. Castagnetti, *La lex cumana libitinaria* nelle sue due redazioni, in: *Libitina e dintorni. Libitina e i luci sepolcrali. Le leges libitinae campane. Iura sepulcrorum*. Vec-

ever (while the individuals were on the ground), using a garrote or noose (*laqueus*). W. A. Oldfather lists a number of terms used for this form of execution including *strangulare*, *laqueo gulam frangere*, *cervicem frangere*, *fauces elidere*, etc.¹⁵

2 Greek Terminology

The Greek terminology for “cross”, “stake”, and “crucify,” “impale,” or “suspend” is ambiguous at times. One must pay careful attention to the context. The context is a reliable guide for determining if an act of suspension is a penal execution. During the Roman era there does not exist much doubt that suspension (i.e., crucifixion) was a frequent form of execution.¹⁶ The fre-

chie e nuove iscrizioni. Atti dell’XI Rencontre franco-italienne sur l’épigraphie, ed. S. Panciera, Libitina 3, Rome 2004, 133-46, esp. 140 (approves Cantarella’s position). W. A. Oldfather, Livy i, 26 and the *Supplicium de More Maiorum*, TAPA 39 (1908) 49-72, esp. 54, “There is not a particle of evidence that Romans ever hanged criminals from a gallows.” W. B. Tyrrell, A Legal and Historical Commentary to Cicero’s *Oratio pro C. Rabirio Perduellionis Reo*, 93 “... hanging by the neck is unattested as a means of executing criminals.” One possible example from the Republic is Cic. Ver. 2.3.57 (Nymphodorus of Athens was apparently not “hung” by Apronius [a tithe collector], but kept in discomfort suspended from an olive tree, and then rescued [*suspendi ... in oleastro ... pependit in arbore ... quam diu voluntas Apronii tulit*], according to Cantarella, *ibid.*, 177) and cp. Oldfather, *Supplicium*, 52 (he escaped with his life although he was suspended a long time). *pependit in arbore* should be compared to Ov. Pont. 1.6.38 and Mart. Sp. 9.(7)4 (both *pendens in cruce*), Iuvencus Euang. 4,662 (CSEL 24, 140 Huemer) *Iamque cruci fixum pendebat in arbore corpus*. Cp. Apronius’s temporary punishment of another individual in 2.3.56 (*quantum Apronii libido tulit*). Apronius did not have legal authority to put him to death. In Ammianus 15.7.4-5 a rioter named Peter is suspended with his hands tied behind his back and flogged (*post terga manibus vinctis suspendi*), but not put to death. One of the earliest accounts of execution by hanging occurs in Oros. Hist. 5.16.5 (V C.E.). The Cimbri in 105 B.C.E. executed their prisoners by placing nooses on their necks and hanging them from trees (*homines laqueis collo inditis ex arboribus suspensi sunt*). The earliest evidence for Roman hanging I have found is from the era of Constantine (319) in Codex Iust. (CJ) 9.14.1.1 where Constantine decrees a charge of murder against masters who suspend their slaves by a noose (*suspendi laqueo praeceperit*). He also used the noose (while the condemned was presumably standing): He had the vertebrae of Maximianus Herculus fractured using a noose after capturing him in Marseilles: *Maximianus Herculus a Constantino apud Massiliam obsessus, deinde captus, poenas dedit mortis genere postremo, fractis laqueo cervicibus* (Epit. 40.5 [BiTeu 164,27-9 Pichlmayr]).

¹⁵ Oldfather, *Supplicium*, 54. Tac. Ann. 6:5.9.2 depicts the “squeezed throats” (*oblisis faucibus*) of Sejanus’s two children who were then thrown down the Gemonian stairs. Cp. Tacitus in chapt. 1 § 2.18, Cic. Vat. 26 (*fregerisne in carcere cervices*), Sal. Cat. 55.5 (*laqueo gulam fregere*), SHA Trig. Tyr. 22.8 (*strangulatus in carcere*), Vell. 2.4.2 (*elisarum faucium* [apparently a murder])

¹⁶ Cf. Cook, *Roman Crucifixions*, passim and chapt. 2.

quency, dreariness and brutality of the act itself did not encourage authors to expend a great deal of energy making narrative descriptions.

2.1 σταυρός (*pole, cross*), σταυρόω (*crucify*), ἀνασταυρόω (*suspend, crucify, impale*), σκόλοψ (*stake, cross*), ἀνασκολοπίζω (*impale, crucify*)

Samuelsson has recently made numerous and intriguing claims about crucifixion terminology.¹⁷ In my view his attempt to identify one main sense for σταυρός, i.e. “a raised pole” or “a pole onto which something or somebody (dead or alive) is suspended,” is erroneous.¹⁸ Clearly words can have numerous senses.¹⁹ Samuelsson’s claim that σταυρός “is a pole in the broadest sense. It is not the equivalent of a ‘cross’ (†)” is almost certainly incorrect. Two texts and two graffiti that he ignores are decisive evidence against his position. Lucian writes in his *Consonants at Law*:

People weep and mourn over their destiny and often curse Cadmus, because he brought the Tau into the class of letters. For they affirm that tyrants follow its [Tau’s (T)] figure and imitate its form and then join beams together with the same figure to crucify people on them. From this [Tau], the evil name [*stauros*, cross] is united with the evil people. For the cross [*stauros*] has been created by this letter [the Tau], but has been given a name by people.

κλάουσιν ἄνθρωποι καὶ τὴν αὐτῶν τύχην ὀδύρονται καὶ Κάδμῳ καταρῶνται πολλάκις, ὅτι τὸ Ταῦ ἐς τὸ τῶν στοιχείων γένος παρήγαγε· τῷ γὰρ τούτου σῶματί φασι τοὺς τυράννους ἀκολουθήσαντας καὶ μιμησαμένους αὐτοῦ τὸ πλάσμα ἔπειτα σχήματι τοιοῦτο ξύλα τεκτύναντας ἀνθρώπους ἀνασκολοπίζειν ἐπ’ αὐτά· ἀπὸ δὲ τούτου καὶ τῷ τεχνήματι τῷ πονηρῷ τὴν πονηρὰν ἐπωνυμίαν συνελθεῖν. ὃ δὴ σταυρός εἶναι ὑπὸ τούτου μὲν ἐδημιουργήθη, ὑπὸ δὲ ἀνθρώπων ὀνομάζεται.²⁰

Lucian thinks it self-evident that σταυρός has a cruciform shape. Barnabas, in his discussion of Gen 14:14, also draws an equivalence between tau and *stauros*, since tau’s numerical value is 300: “Ὅτι δὲ ὁ σταυρός ἐν τῷ Τ ἡμελλεν ἔχειν τὴν χάριν, λέγει καὶ τοὺς «τριακοσίους» (Because the

¹⁷ Samuelsson, *Crucifixion*, 203, 309 (σταυρός is “a pole in the broadest sense”). σταυρός in certain contexts can be used for the stake to which an individual was bound (προσδέω) on the ground and then flogged to death (Cassius Dio 2.11.6 [I, 27,9-11 Bois-svain], 30-35.104.6, 49.22.6, 63.13.2).

¹⁸ Samuelsson, *Crucifixion*, 285. He then hedges his definition of σταυρός: “a pole or wooden frame on which corpses were suspended or persons exposed to die” (cf. OLD, s.v. *crux*).

¹⁹ One of the most useful handbook for semantics is K. Baldinger, *Semantic Theory. Towards a Modern Semantics*, Oxford 1980.

²⁰ Lucian *Jud. voc.* 12. J. Sommerbrodt deletes the last sentence, but it is included in the Oxford edition (Luciani Opera. Tomus I. Libelli 1-25, SCBO, ed. M. D. Macleod, Oxford 1972, 143). Samuelsson, *Crucifixion*, 278 includes this text in his quotation of LSJ s.v., but does not discuss it, nor modify his position accordingly (in either edition). P. Degen, *Das Kreuz bei den Alten*, Aachen 1872, 24 recognized the importance of this text.

cross was going to have grace in the tau, he says “300”).²¹ Barnabas (ca 130-132) naturally identified the shape of a σταυρός with the T-shape.²² Two Roman graffiti (by pagans) of crucifixions are both in the shape of a tau (Τ).²³ The Puteoli graffito is probably from the era of Trajan. This evidence is surely not coincidental. Lucian and Barnabas show that σταυρός is not the equivalent of “pole” in its broadest sense. The word could mean “pole” or some kind of “cross.”²⁴ Lest one object that the cruciform sense of the word can only be shown to apply in the NT era (and later), one merely has to consider the meaning of *patibulum* below (§ 3.1-3). It clearly signifies the horizontal member of the cross and can also be used to refer to the entire structure in some Latin texts. Many of those texts are pre-Christian. Consequently, it is clear that Roman crosses could be cruciform. The preferred Greek word that was used to describe the *patibulum* and *stipes* structure (i.e., the cruciform shape) was σταυρός (*stauros*).²⁵ Since one can demonstrate that σταυρός could have a cruciform sense beginning with the NT period, there is no overwhelming reason for doubting that the same meaning existed in some texts prior to the NT.²⁶ It could, of course, also mean “pole.” The cruciform sense of *crux* (one of its two main senses) warrants the belief that the cruciform sense of its Greek equivalent (σταυρός) existed before the NT.

Several patristic writers and Artemidorus confirm this interpretation. Justin, after quoting Deut 33:13-17, discusses the shape of crosses in his *Dialogue with Trypho*. He intends his typological exegesis to reveal the power of the mystery of the cross (τὴν ἰσχὺν τοῦ μυστηρίου τοῦ σταυροῦ).²⁷

²¹ Barn. 9.8. Cp. J. Stockbauer, *Kunstgeschichte des Kreuzes*, Schaffhausen 1870, 89.

²² The date is from *Die Apostolische Väter. Griechisch-deutsch Parallelausgabe auf der Grundlage der Ausgaben von F. X. Funk, K. Bihlmeyer und M. Whittaker, mit Übersetzungen von M. Dibelius und D.-A. Koch*, newly trans. and ed. A. Lindemann and H. Paulsen. Tübingen 1992, 24 with ref. to Barn. 16:3 (the new editors date the construction of the temple of Jupiter to 130, which is problematic). Cf. E. M. Smallwood, *The Jews and Roman Rule. From Pompey to Diocletian. A Study in Political Relations*, Boston/Leiden 2001, 432-435.

²³ On the Puteoli graffito, cf. J. G. Cook, *Crucifixion as Spectacle in Roman Campania*, *NovT* 54 (2012) 68-100, esp. 92-98 and on the Palatine graffito, cf. idem, *Envisioning Crucifixion: Light from Several Inscriptions and the Palatine Graffito*, *NovT* 2008, 262-285, esp. 282-284. See figures 5-7, 10. The tau shape appears on an amulet of III C.E. (figure 14).

²⁴ Cp. the similar picture of cross in Artemidorus *Onir.* 2.53 (below in this section and in chapt. 2 § 3.1.4) and cp. the image of cross as mast in Eusebius *H.E.* 8.8.1 (chapt. 2 § 3.24.1) quoted below.

²⁵ Cf. § 3.1-2 below on *patibulum* and σταυρός.

²⁶ Diodorus 25.5.2 (chapt. 3 § 1.12), e.g., mentions an individual nailed to a cross, which probably had a *patibulum*. Cp. Diodorus 20.54.7 (chapt. 3 § 1.12) where it is also clear that *stauros* is not a simple pole and 2.18.1 (chapt. 3 § 1.12: nail to a cross).

²⁷ Justin *Dial.* 91.1 (PTS 47, 226,1-2 Marcovich). The quotation of Deut 33:13-7 then follows.

No one can say or demonstrate that the horns of the single horned animal are [signs] of any other matter or figure other than of the type which represents the cross. For the one beam is upright, whose highest part is raised up into a horn when the other beam is attached to it, and on each side the ends appear as horns that are yoked with the single horn. And what is fixed in the middle [i.e., the *sedile*] is like a horn and it projects [outward], and those who are being crucified rest on it; and it itself also appears to be a horn conformed and fixed with the other horns.

μονοκέρωτος γὰρ κέρατα οὐδενὸς ἄλλου πράγματος ἢ σχήματος ἔχει ἂν τις εἰπεῖν καὶ ἀποδείξαι, εἰ μὴ τοῦ τύπου ὃς τὸν σταυρὸν δείκνυσιν. ὀρθιον γὰρ τὸ ἔν ἐστι ξύλον, ἂφ' οὗ ἐστι τὸ ἀνώτατον μέρος εἰς κέρας ὑπερηρμένον, ὅταν τὸ ἄλλο ξύλον προσαρμωθῇ, καὶ ἐκατέρωθεν ὡς κέρατα τῷ ἐνὶ κέρατι παρεξευγμένα τὰ ἄκρα φαίνηται· καὶ τὸ ἐν τῷ μέσῳ πηγνύμενον ὡς κέρας καὶ αὐτὸ ἐξέχον ἐστίν. ἐφ' ᾧ ἐποχοῦνται οἱ σταυρούμενοι, καὶ βλέπεται ὡς κέρας καὶ αὐτὸ σὺν τοῖς ἄλλοις κέρασι συνεσχηματιζόμενον καὶ πεπηγμένον.²⁸

Thus Justin is a witness for a T-shaped cross. One should compare his description to the Puteoli graffito (figures 5-7) that includes a *sedile* (seat) and a *patibulum*. Since “pagan” crosses correspond to Justin’s description (cp. the Palatine graffito [figure 10]), his conception accurately mirrors Roman practice.²⁹

Artemidorus (mid - late II C.E.) explains the nature of the cruciform shape in one of his dream interpretations:

Being crucified is a good thing for all sailors. For a cross is made from posts and nails like a ship, and its mast is like a cross.

Σταυροῦσθαι πᾶσι μὲν τοῖς ναυτιλλομένοις ἀγαθόν· καὶ γὰρ ἐκ ξύλων καὶ ἡλῶν γέγονεν ὁ σταυρὸς ὡς καὶ τὸ πλοῖον, καὶ ἡ κατάρτιος αὐτοῦ ὁμοία ἐστὶ σταυρῷ.³⁰

²⁸ Justin Dial. 91.2 (227,11-8 Marc.) and cf. the quotation by Tertullian of the same text of Deuteronomy below in two texts (§ 3.4: Iud. 10.7, Marc. 3.18.3). Justin 1 Apol. 55.3 (PTS 38, 110,10-11 Marcovich) says that diggers (σκαπανεῖς) do their work with a tool in the form of a cross. A man carries a tool (a † shape) in a depiction on a roof tile found in a Roman graveyard in Baltatonberény. K. Sági, Darstellung des altchristlichen Kreuzes auf einem römischen Ziegel, AAH 16 (1968) 391-400 (figure on 399) thought it was a pagan caricature of Christ and his cross, however it is more likely a representation of a gravedigger. Cf. D. Gáspár, Christianity in Roman Pannonia. An Evaluation of Early Christian Finds and Sites from Hungary, Oxford 2002, 139-40 § 61.II.a (figs. 386a, b) and cp. figures 52 (found in Aquincum) and 53 for depictions of the tools of a *fossor*. The tool on the roof tile closely resembles a tool on the ground in the depiction of “*Diogenes fossor* ...,” that was found in the catacomb of Domitilla. An illustration is in É. Michon, *fossarius, fossor*, DAGR II/2, 1333-4. For the inscription, cf. ICUR (1896) III, 6649 (IV CE). Both text and illustration are on the Clauss-Slaby database (accessed 11 April 2013). Consequently, Hengel, Crucifixion, 20 is probably in error (i.e., his claim that the tile is a parody of Christ carrying his cross).

²⁹ Consequently Samuelsson’s (Crucifixion, 295) dismissal of such descriptions as “Christian” is baseless.

³⁰ Artemidorus Onir. 2.53. Kuhn, Die Kreuzesstrafe, 702.

The important point is that a cross is made from posts and not just one stake, in his conception. The mast clearly comprises a horizontal member, because for Artemidorus a cross consists of two members, at the least. In another text Artemidorus mentions individuals who carry the cross before crucifixion, and this is a clear reference to a *patibulum*.³¹

Eusebius confirms the role “mast” terminology plays in a text on crucifixions which he witnessed in Egypt in 313:³²

... others with good courage stretched forth their heads to them that cut them off, or died in the mist of their tortures, or perished with hunger; others again were crucified, some as malefactors usually are, and some, even more brutally, were nailed in the opposite manner, head-downwards, and kept alive until they should perish of hunger on the gibbet [mast/cross].³³

... ἄλλοι δ' εὐθαρσῶς τοῖς ἀποτέμνουσιν τὰς ἑαυτῶν προτείναντες κεφαλὰς, οἳ δὲ καὶ ἐναποθανόντες ταῖς βασάνοις, ἕτεροι δὲ λιμῷ διαφθαρέντες, καὶ ἄλλοι πάλιν ἀνασκολοπισθέντες, οἳ μὲν κατὰ τὸ σύνηθες τοῖς κακούργοις, οἳ δὲ καὶ χειρόνως ἀνάπαλιν κάτω κάρα προσηλωθέντες τηρούμενοί τε ζῶντες, εἰς ὅτε καὶ ἐπ' αὐτῶν ἰκρίων³⁴ λιμῷ διαφθαρεῖεν.³⁵

The word Eusebius uses for gibbets can mean “mast” or “cross.” It is also evident that there are no uses of σταυρός that include clues or additional semantic details which describe an impalement.³⁶

The verb ἀνασταυρόω can mean “impale” in certain texts when describing the treatment of disembodied heads. Herodotus describes Taurians who sacrifice shipwrecked Greeks and suspend/impale their heads (τὴν δὲ κεφαλὴν ἀνασταυροῦσι). They treat enemies similarly:

³¹ Artemidorus Onir. 2.56. See § 3.2 below. For the argument concerning *patibulum* and *crux* (which in Roman texts one *never* carried), see § 3.2.

³² Eusebius H.E. 8.9.4 (T. D. Barnes, *Early Christian Hagiography and History*, Tria Corda 5, Tübingen 2010, 342) and cp. idem, *Constantine and Eusebius*, Cambridge, MA/London 1981, 148.

³³ Here and elsewhere in translations I take from other scholars the material in brackets is my own contribution.

³⁴ LSJ, s.v. “ἰκρία III, sg., = ἰστός, *mast*.” Cp. Eustathius Comm. ad Hom. Il. (3.784,1-2 van der Valk) in which the word is used for the top of a mast: ἄλλοι δὲ ἰκρία φασι τὰ ἐξέχοντα τῶν νηῶν ἄκρα. ὅτι δὲ ἰκριον λέγεται καὶ ἐπὶ ἰστοῦ ... (with ref. to Homer, Il. 15.685). LPGL s.v. ἰκριον “*scaffold, gallows; of cross ...*” Cp. Eusebius D.E. III 3.4.27 (GCS Eusebius Werke VI, 115,1-2 Heikel): ... κᾶπειτα ἐπὶ τοῦ ἰκρίου φωνήσας μέγα, καὶ τῷ πατρὶ παρατιθεὶς τὸ πνεῦμα ... (and then calling out loudly on the mast/cross and commanding his spirit to the Father) and Lucian Cat. 13 (chapt. 3 § 2.10): ἰστῷ (mast).

³⁵ Eusebius H.E. 8.8.1, trans. of Eusebius, *Ecclesiastical History*, vol. 1-2, LCL, ed. and trans. K. Lake and J. E. L. Oulton, Cambridge, MA/London 1926-1932, 2.275. Cp. the similar account in Laus C. 7.7 (chapt. 2 § 3.24.1).

³⁶ See, in contrast, Diodorus 25.5.2 (chapt. 3 § 1.12; nailed to a *stauros*), *Anthologia Graeca* 11.192 below, and Plutarch An vit. 499D (nail to a *stauros*) below.

Each one cuts off his enemy's head and brings it to his home, then impales it on a great beam and places it high above the home, especially above the smoke hole in the roof.

ἀποταμὼν [ἐκαστος] κεφαλὴν ἀποφέρεται ἐς τὰ οἰκία, ἔπειτα ἐπὶ ξύλου μεγάλου ἀναπείρας ἰστᾶ ὑπὲρ τῆς οἰκίας ὑπερέχουσιν πολλόν, μάλιστα δὲ ὑπὲρ τῆς καπνοδόκης.³⁷

The verb, however, means “crucify” in texts such as Josephus’s description of Alexander Jannaeus’s crucifixion of 800 of the Pharisees’ supporters in 88 B.C.E.:

While he feasted with his concubines in a conspicuous place, he ordered some eight hundred of the Jews to be crucified, and slaughtered their children and wives before the eyes of the still living wretches.

ἐσιώμενος γὰρ ἐν ἀπόπτῳ μετὰ τῶν παλλακίδων ἀνασταυρῶσαι προσέταξεν αὐτῶν ὡς ὀκτακοσίους, τοὺς δὲ παῖδας αὐτῶν καὶ τὰς γυναικας ἔτι ζώντων παρὰ τὰς ἐκείνων ὄψεις ἀπέσφατεν.³⁸

The fact that the crucified victims were still living while their families were murdered in front of them indicates that impalement was clearly not the punishment. In a much earlier text Herodotus uses ἀνεσταύρωσε to describe Darius’s intended crucifixion of Sandoces (he was released).³⁹ I am aware of no text using the verb ἀνασταυρῶ that describes an explicit impalement of a living person (i.e., a text with additional semantic clues).⁴⁰ The linguistic and historical contexts are crucial for determining which sense of the verb should be adopted (i.e., “suspend,” “impale” [presumably for most disembodied heads], or “crucify”).

σταυρῶ can refer to suspension as in Diodorus Siculus’s description of the death of Onomarchus: “Onomarchus was wounded (or cut in pieces) and suspended/crucified” (Ὀνόμαρχος ... κατακοπεῖς ἐσταυρώθη).⁴¹ The *Greek Anthology* preserves an epigram of Lucillius, who was active during

³⁷ Herodotus 4.103.1-3 (cf. Samuelsson, Crucifixion, 45). Cp. Herodotus 9.78.3: the impalement or suspension of Leonidas’s head by the Persians τὴν κεφαλὴν ἀνεσταύρωσαν. See chapt. 3 § 1.2. Josephus A.J. 6.374 describes the attachment (not impalement), by the Philistines, of the bodies of Saul and his sons to the walls of Bethshan (τὰ δὲ σώματα ἀνεσταύρωσαν πρὸς τὰ τείχη τῆς Βηθσάν πόλεως). Cf. chapt. 2 § 3.22 for other uses of the verb to refer to impaled or suspended heads. It is possible that nails were occasionally used for suspending heads. Strabo 4.4.5 describes Druids who nail the heads of their enemies on the doors of their homes (κομίσαντας [τὰς κεφαλὰς] δὲ προσπαταλεύειν τοῖς προπυλαίοις). Cf. Samuelsson, *ibid.*, 46.

³⁸ Josephus A.J. 13.380. Trans of Josephus, *Jewish Antiquities* Books XII-XIV, vol. 7, ed. and trans. R. Marcus, Cambridge, MA/London 1933, 417. Cp. B.J. 1.97 (same scene).

³⁹ Herodotus 7.194.1-3 (cf. chapt. 3 § 1.2). Diodorus 25.5.2 (cf. chapt. 3 § 1.12) is another use of ἀνεσταύρωσεν that clearly means “crucified,” since it is parallel with εἰς τὸν αὐτὸν σταυρὸν ... προσήλωσεν (nailed to the same cross).

⁴⁰ No text describes an explicit hanging by a noose using the verb.

⁴¹ Diodorus 16.61.2 (cf. chapt. 3 § 1.12).

the reign of Nero in which the verb manifestly refers to crucifixion and not impalement:

Envious Diophon, seeing another man near him crucified on a higher cross than himself, fell into a decline.

Μαροτέρῳ σταυρῷ σταυρούμενον ἄλλον ἑαυτοῦ
ὁ φθονερός Διοφῶν ἐγγὺς ἰδὼν ἐτάκη.⁴²

Diophon, while being crucified himself (and so not impaled, which would have resulted in immediate death), was consumed with envy of another man's more impressive cross. No occurrence of σταυρώ I have found describes the explicit impalement of a living person (i.e., a text with additional semantic clues). Consequently, "suspend" (in the case of corpses) or "crucify" are acceptable translations of the verb in most penal contexts.⁴³

σκόλοψ could be used for a stake to impale an individual. Plutarch mentions it as a possible form of death (unspecified executioner), which he contrasts with crucifixion, ("will you nail him to a cross or impale him on a stake?" εἰς σταυρὸν καθηλώσεις ἢ σκόλοπι πήξεις;).⁴⁴ Celsus, however, uses the noun interchangeably with σταυρός, and does not conceive Jesus' death to be an impalement. His mention of the piercing of Jesus' hands probably implies the presence of a *patibulum*.⁴⁵ An oracle attributed to the Milesian Apollo describes Jesus nailed to stakes (γομφωθεὶς σκολόπεσσι), which indicates a cross built from at least two members.⁴⁶ Cassius Dio can use ἀνασκολοπίζω for suspension. The governor envisions impalement by stakes after suspension using the verb: "... to be suspended ... to be pierced by

⁴² Anthologia Graeca 11.192 (chapt. 2 § 3.5.4). Trans. of The Greek Anthology, Vol. 4, LCL, ed. and trans. W. R. Patton, Cambridge, MA/London 1918, 163. Cp. the use for crucifixion (with nails mentioned) in Lucian Prom. 1 (ἐσταυρῶσθαι).

⁴³ An exception may be Priscus's use of the verb to describe Attila's executions (cf. frag. 2 [Blockley] in chapt. 3 § 10.6). The verb is never used to express hanging by a noose (i.e., with explicit semantic clues).

⁴⁴ Cf. Plutarch An vit. 499D (chapt. 3 § 2.6). Cp. Euripides Iph. Taur. 1430 σκόλοψι πήξωμεν δέμας ([Asia Minor] let us [some barbarians] impale their [live] bodies on a stake), El. 898 πήξας' ἔρεισον σκόλοπι (Orestes to Electra: impaling it [the corpse of Aegisthus] thrust it down on a stake [a murder]), Diodorus 33.15.1 οἱ δὲ κεφαλὰς καὶ χεῖρας καὶ πόδας ἀφρημένους· καὶ τούτων οἱ μὲν ἐπὶ σκόλοψιν, οἱ δὲ ἐπὶ δένδροισιν ἀνῆρτηντο ([Diegylis, a Thracian, executed some hostages:] some were deprived of heads, and hands and feet; of these some were fixed to stakes and others to trees), Eur. Bacch. 1139-41 κρᾶτα δ' ἄθλιον / ... / πήξας' ἐπ' ἄκρον θύρσον ([Agave] fixed his [Pentheus's] miserable head on the top of a thyrsus), Homer Il. 18.176-7 κεφαλὴν ... / πῆξαι ἀνὰ σκολόπεσσι ταμόνθ' ἀπαλῆς ἀπὸ δειροῆς (cutting his [Patroclus's] head from the tender neck fix it on stakes).

⁴⁵ Origen C. Cels. 2.55 τὴν ἐπὶ τοῦ σκόλοπος αὐτοῦ φωνήν (his voice on the stake [this text also mentions the nails in his hands]), 2.61 τῶν ἐπὶ τῷ σταυρῷ τραυμάτων (the wounds he received on the cross). Cf. chapt. 3 § 6.1 (Celsus) and the discussion of *patibula* below (§ 3.1).

⁴⁶ Lact. Inst. 4.13.11, cf. chapt. 1 § 2.27.

red-hot stakes (ἀνασκολοπισθῆναι ... πασσάλους διαπύροις ἀναπαρῆναι).⁴⁷ The verb is frequently used for crucifixion, however, as in the text from Lucian quoted above.⁴⁸ Philo also describes crucifixions using the verb, as do Chariton and Celsus.⁴⁹ None of the impalements mentioned above are by Roman authorities, and explicit impalements (i.e., with the kinds of clues Cassius Dio gives) in Greek literature of living individuals using ἀνασκολοπίζω are extremely rare.⁵⁰ The explanation for the few clear impalements in the Roman era may be that the authors recognized their rarity. Many Greek texts using the words discussed in this section, however, have clues that indicate crucifixion and not impalement (see chaps. 2 and 3). Since there are no demonstrable impalements of living individuals using either σταυρώ or ἀνασταυρώ, the verbs probably refer to crucifixion or a similar form of suspension in nearly every occurrence in which a living person is executed.

2.2 κρεμάω, κρεμάννυμι (*suspend, crucify*)

The verb κρεμάω or κρεμάννυμι in its various forms can also be used to refer to suspension or crucifixion. In ancient Greece there was a form of penalty (in mythology and probably in the fifth century B.C.E.) that one may call exposure.⁵¹ In Sophocles' *Antigone*, for example, Creon states that those who break his edict against the burial of Antigone's brother will be suspended alive. He threatens the chorus of Theban elders after discovering that Polyneices has been buried:

Death will not suffice for you, before – suspended alive – you make this outrage clear

οὐχ ὅμιν Ἄιδης μῶνος ἀρκέσει, πρὶν ἂν

⁴⁷ Cassius Dio 62.11.4 (chapt. 3 § 2.13). The Britons suspended the Roman women first (ἐκρέμασαν) and then impaled them with stakes (πασσάλους ... ἀνέπειραν). Herodian 8.6.7 uses the verb to describe the transfixed heads of Maximinus and his son (δεικνύντες τὴν κεφαλὴν τοῦ πολεμίου ἀνεσκολοπισμένην). Cp. Cassius Dio 30-35.109.4 (he [Sulla] sent the heads of Brutus Damasippus and those allied with him to Praeneste and transfixed them τὰς κεφαλὰς τοῦ τε Δαμασίπου καὶ τῶν συνεξετασθέντων αὐτῷ πρὸς τὸ Πραινέστε πέμψας ἀνεσκολόπισε).

⁴⁸ Lucian Jud. voc. 12 and Peregr. 11, 13. See also chapt. 3 § 10.4 for later uses.

⁴⁹ Philo Post. 61, Somn. 2.213, etc. Cf. chapt. 3 § 2.3. Chariton Chaer. 3.4.18, 8.7.8 (chapt. 3 § 3.1). Origen C. Cels. 2.36, 7.40 (chapt. 3 § 6.1).

⁵⁰ The texts from Plutarch (which uses the noun) and Cassius Dio are the only two I am aware of from the Second Punic War to Constantine.

⁵¹ Cf. M. Halm-Tisserant, *Réalités et imaginaires des supplices en Grèce ancienne*, CEA 125, Paris 1998, 158-88 with various images of individuals attached to stakes (Plates 21-28). Cf. in particular Halm-Tisserant, *ibid.*, 165-66 and her discussion of a Cypro-Phoenician cup that depicts Prometheus attached to a stake by his forearms. His feet do not apparently touch the ground (Pl. 25, E1). This statement assumes that ἀποτυμπανισμός (*apotumpanismos*) refers to exposition on some kind of object (board or stake). Cf. § 2.3 below.

ζῶντες κρεμαστοὶ τήνδε δηλώσῃθ' ὕβριν⁵²

The text seems to affirm that they will die while suspended, but not before confessing who the author of the crime is (so the execution is not impalement).

Arrian (ca 86-160), for example, wrote that Alexander crucified the rebel Callisthenes:

Aristobulus affirms that Callisthenes was bound in shackles and led around with the army and then died by some disease, but Ptolemaeus of Lagos wrote that after being tortured he was crucified and died.

Καλλισθένην δὲ Ἀριστόβουλος μὲν λέγει δεδεμένον ἐν πέδαις ξυμπεριάγεσθαι τῇ στρατιᾷ, ἔπειτα νόσῳ τελευτήσαι, Πτολεμαῖος δὲ ὁ Λάγους στρεβλωθέντα καὶ κρεμασθέντα ἀποθανεῖν.⁵³

Plutarch (before 50 – after 120) has ὑπ' Ἀλεξάνδρου κρεμασθέντα λέγουσιν (some say that he [Callisthenes] was crucified by Alexander).⁵⁴ He indicates that Caesar often warned the pirates he could crucify them (πολλάκις ἠπειλῆσε κρεμᾶν αὐτούς), and later he crucified all the brigands: τοὺς ληστὰς ἅπαντας ἀνεσταύρωσεν.⁵⁵ Since hanging is not a Roman penalty (that is, it was not used as a punishment in the Republic or imperium), Plutarch, specifically indicates it for cases of suicide.⁵⁶ Appian uses ἐκρεμάσθησαν for crucifixions of slaves that Cicero describes with *in*

⁵² Sophocles Ant. 308-9. Suspension could be used as a torture (cf. Zeus's suspension of Hera in Homer Il. 15.18 [ἤ οὐ μέμνη ὅτε τ' ἐκρέμω ὑψόθεν "or do you not remember when you were suspended from on high [with two anvils attached to her feet]).

⁵³ Arrian Anab. 4.14.3. In agreement with this reading is A. B. Bosworth, *A Historical Commentary on Arrian's History of Alexander*. Commentary on Books IV-V, Oxford 1995, 100: "Crucifixion was inflicted by Alexander on rebels (6.17.2), usurpers (6.30.2) or stubbornly resistant defenders" (2.24.4 [mentions the death of the Tyrian defenders, but not the manner]; Curt. 7.11.28). Cf. chapt. 3 § 2.8 for a defense of the translation.

⁵⁴ Plutarch Alex. 55.9.

⁵⁵ Plutarch Caes. 2.4 and 2.7 respectively. Cp. Plutarch Ag. Cleom. 59.4 προσέταξε τὸ μὲν σῶμα τοῦ Κλεομένους κρεμάσαι καταβυρσώσαντας (he commanded that the body be sewn in a skin and suspended), 60.2 τὸ σῶμα τοῦ Κλεομένους ἀνεσταύρωμένον (the "crucified" body of Cleomenes). This is post-mortem crucifixion/suspension.

⁵⁶ Plutarch Brut. 31.5 κρεμαμένη [a Xanthian woman] μὲν ἐξ ἀγχόνης (suspended from a noose; a suicide). Cp. the lawless hanging in Sparta of Agis, his mother, and grandmother (Plutarch Ag. Cleom. 20.4 τὴν μητέρα νεκρὰν ἐκ τοῦ βρόχου κρεμαμένην). For other uses of the verb for crucifixion, cf. Josephus B.J. 7.202, A.J. 11.267, Philo Post. 61, Achilles Tatius 2.37.3 (dangling, but not crucifixion), Diodorus Sic. 20.54.7, Lucian Prom. 1, Ps. Callisthenes Historia Alexandri Magni (Recensio α) 2.21.24 (95,20-1 Kroll), Diogenes Ep. 28.3, and Luke 23:39. Unless Appian mentions hanging another object (e.g. suspending heads on the rostra in Bell. civ. 1.71/328-9 [BiTeu II, 77,8-12 Mend./Vier.]), it is a fair assumption that when he uses the verb for execution, crucifixion is the intended means of death, given Roman practice in general (e.g., slaves were frequently executed by crucifixion) and the word's function. Cf. Oldfather, *Supplicium*, 57, chapt. 3 § 2.6, chapt. 3 § 2.8.

crucem (to the cross).⁵⁷ I have found no uses of the verbs which describe an explicit impalement.

2.3 ἀποτυπανισμός, ἀποτυπανίζω (*expose on a board/beam*)

This difficult word probably refers to exposure on a number of beams or on a board. The Athenian orators who use the word (Lysias and Demosthenes) do not describe the nature of the penalty.⁵⁸ τύπανον may itself mean board.⁵⁹ Vitruvius uses it for a panel of a door.⁶⁰ Lucian associates it with crucifixion in *Juppiter tragoedus*. Momus asks Zeus why Epicurus and such thinkers should not be expected to think as they do when good people suffer:

and temple robbers are not punished but are forgotten, while people who have done no wrong are sometimes crucified or exposed on a plank?

καὶ τοὺς μὲν ἱεροσύλους οὐ κολαζομένους ἀλλὰ διαλανθάνοντας,
ἀνασκολοπιζομένους δὲ καὶ τυπανιζομένους ἐνίοτε τοὺς οὐδὲν ἀδικοῦντας;⁶¹

Lucian also associates the two penalties in his *Cataplus*. Clotho tells Hermes:

Bring in now the people from the courts, I mean those from the plank (tympānum) and those who were crucified.

Τοὺς ἐκ δικαστηρίων δῆτα παράγαγε, λέγω δὲ τοὺς ἐκ τυμπάνου καὶ τοὺς ἀνεσκολοπισμένους.⁶²

The execution may have been accompanied by beheading or other tortures in some instances.⁶³ A text in Aristotle indicates that the death was prolonged. He compares those who are wealthy and powerful and do not think they will suffer anything with those who have been condemned to death:

They do not think that they will suffer anything ... nor [do they think they can suffer any more] who believe that they have already suffered all the terrors and who are cold and indifferent to the future, like those who have already been exposed on a board.

⁵⁷ Appian Bell. civ. 3.3/9 (II, 295,10-4 Mend./Vier.) = Cic. Att. 14.15.1 and 14.16.2. Cf. chapt. 2 § 2.15.1. Cp. Diod. Sic. 17.46.4 (ἐκρέμασε) and Curt. 4.4.17 (*crucibus adfixi*).

⁵⁸ Lysias In Agoratum 56, 67, 68, Demosthenes Philippica 3.61, De corona 137.

⁵⁹ L. Gernet, Sur l'exécution capitale. A propos d'un ouvrage récent, REG 37 (1924) 261-93, esp. 263.

⁶⁰ Vit. 4.6.4. Vergil G. 2.444 uses it for a solid circular wheel.

⁶¹ Lucian Jupp. trag. 19.

⁶² Lucian Cat. 6.

⁶³ In Plutarch Per. 282 (chapt. 3 § 1.5), Pericles attaches individuals to boards for ten days and then shatters their heads with clubs. Cp. the punishment of Artaŷktes (Herodotus 7.33, 9.120 [chapt. 3 § 1.2]) who was nailed to a board (πρὸς σανίδα διεπασσάλευσαν). See also Diodorus 20.54.7 in chapt. 3 § 1.12. C. Balamoshev (ΑΠΟΤΥΜΠΑΝΙΣΜΟΣ: Just Death by Exposing on the Plank?, JJP 41 [2011] 15-33, esp. 23) makes the important point that while the incident in Plutarch may have been an example of ἀποτυπανισμός Plutarch himself may not have understood the word to mean that form of execution since he does not use the term in the passage.

οὐκ οἴονται δὲ παθεῖν ἄν ... οὔτε οἱ ἤδη πεπονθέναι πάντα νομίζοντες τὰ δεινὰ καὶ ἀπεψυγμένοι πρὸς τὸ μέλλον, ὥσπερ οἱ ἀποτυμπανιζόμενοι ἦδη.⁶⁴

Aristotle does not say how long the death lasted, but he apparently does exclude the possibility that it was a death by beheading or by a blow to the skull.

Several sets of archaeological remains from Greece that are of skeletons that were attached by fetters to boards (or some kind of structure) support the interpretation of the word sketched above.⁶⁵ In a group of tombs in Phalerum seventeen skeletons were found in 1915 with an iron collar around their necks and staples on each hand and ankle. They probably date to VII B.C.E. There are remains of wood on the staples, which implies that the victims of the executions were attached to boards. Their death was probably slow.⁶⁶ On Delos in the Fourni house, remains of two skeletons were found in 1960, one of which is a right leg (no foot) with half of the pelvis and a forearm. The other is nearly complete, but lacks the skull. Two iron nails are next to the bones of the isolated leg, one touching the internal upper side of the femur and the other touching the upper part of the fibula. A nail is in the interosseous region of the right leg of the nearly complete skeleton. There were perhaps nails in both hands because there are traces of rust between the two first metacarpals of the right hand and on the phalanges of the middle and right finger of the left hand. There is an iron staple 14 cm long next to the right ankle.⁶⁷ The nail that pierced the upper part of the separate femur probably ruptured the femoral artery, resulting in a quick death.⁶⁸ In the case of the other nearly

⁶⁴ Aristotle Rhet. 2.5.14 (1383a).

⁶⁵ See Halm-Tisserant, *Realités*, 158-62. For photographs of the skeletons and fetters and a sketch of the fetters, see Α. Δ. Κεραμόπουλλος, *Ὁ ἀποτυμπανισμός*, Athens 1923, 11, 15, figures 4-13, 16 (a reconstruction of the individuals attached to boards).

⁶⁶ Gernet, *Sur l'exécution capitale*, 263 (the hypothesis that pirates were responsible is against appearance and probability). He identifies it as *apotumpanismos* as do I. Barkan, *Capital Punishment in Ancient Athens*, 63-72 and Cantarella, *I supplizi*, 41-6. K. Latte rejects the identification and believes that pirates were responsible for the execution (*Todesstrafe*, 1606-8). Examples sometimes cited, that of Mnesilochus in Aristophanes *Thesm.* 930-1 (δῆσον αὐτὸν ... / ... ἐν τῇ σανίδι [bind him to the board]), 938 (believes he will die), 940, 942 (food for ravens), 1003, and *Andromeda* in 1013, 1028-9 (food for ravens), 1032, 1053-5 (Gernet, *ibid.*, 264) are perhaps punishment in the stocks (Latte, *ibid.*, 1606-7). Depictions of stocks in ancient Greek art may be found in Halm-Tisserant, *Realités*, Pl. 12, C80f, i. χάλασον τὸν ἥλον in *Thesm.* 1003 is, however, more naturally interpreted as "loosen the nail" than "loosed the wedge" (something Latte thinks was used to tighten stocks). Cp. Hengel's (*Crucifixion*, 71) example from Cratinus: Scholion in Aristophanes *Thesm.* 940 = fr. 341 (T. Kock, CAF, 1.112-13) πρὸς σανίσιν ἐδεσμεύοντο πολλάκις, ὥς καὶ Κρατῦνος δηλοῖ (they were often bound to boards, as Cratinus shows) = Edmonds, *FAC*, I Cratinus fr. 341.

⁶⁷ P. Ducrey and N. Ducrey, *Les suppliciés de Fourni*, *BCH Suppl I* (1973) 173-81, esp. 174, 178. The hands are in a lowered position.

⁶⁸ Ducrey and Ducrey, *Les suppliciés*, 179.

complete skeleton, the nail in the interosseous cavity could have pierced the interosseous artery resulting in death. The decapitation was done perhaps to shorten the individual's suffering.⁶⁹ The remains date from the last quarter of II B.C.E. to the first third of I B.C.E. It is possible the owners of the house were Roman, which may imply that the punishment was Roman.⁷⁰

The scholiasts note the multivalence of the term. The word became polysemic. This comment on Aristophanes' *Plutus* illustrates the problem:

tumpana: beams on which they attached [people]. For they were used for this punishment. Or cudgels for beating. Or pieces of wood by which those being punished were beaten in law courts.

τύπανα, ξύλα, ἐφ' οἷς ἐτυμπάνιζον· ἐχρῶντο γὰρ ταύτῃ τῇ τιμωρίᾳ· ἢ βάκλα, παρὰ τὸ τύπτειν· ἤγουν ξύλα, οἷς τύπτονται ἐν τοῖς δικαστηρίοις οἱ τιμωρούμενοι.⁷¹

The archaeological evidence confirms the scholiast's first interpretation. Later the word could mean "crucify."⁷² In addition it could mean "punish with death," "decapitate," "beat by any means," and "kill, destroy."⁷³

3 Latin Terminology

I will begin the discussion of Latin terminology with what has often been assumed to be a term for the horizontal member of the Roman cross: *patibulum*. This assumption will be demonstrated to be correct below. It has impor-

⁶⁹ Ducrey and Ducrey, *Les suppliciés*, 179-80. Halm-Tisserant, *Realités*, 168 believes the decapitations were done to profane the corpses (Ducrey and Ducrey, *ibid*, 180 note that mutilation of corpses is unattested in the Hellenistic era). Only one skeleton is complete enough to suggest a decapitation (contra Halm-Tisserant).

⁷⁰ Ducrey and Ducrey, *Les suppliciés*, 180 n. 13. Halm-Tisserant, *Realités*, 168 thinks it is an example of a ritual murder and not a capital execution.

⁷¹ Scholia in Aristophanes *Plut.* 476 (349 Dübner). Cp. Lucian *Jupp. trag.* 19.

⁷² Celsus in Origen *C. Cels.* 2.31 (107,21-2 Marc.) ἀνθρώπον ἀτιμότατα ἀπαχθέντα καὶ ἀποτυμπανισθέντα (a person most dishonorably arrested and crucified); 8.54 (571,7 Marc.) ἀλλ' οὐδ' εἰκῇ παρέχομεν τὸ σῶμα στρεβλοῦν καὶ ἀποτυμπανίζειν (but we do not "offer our bodies in vain to be tortured and crucified"). A text written before 150 B.C.E. (on the date see CCAG VII, 129-31 Boll) has: Ἐὰν δὲ ἡ Σελήνη ὥρα πρώτη δευτέρᾳ ἐν Σκορπίῳ ἐκλείπῃ ὅλη, ἐν Αἰθιοπία καὶ τοῖς προσεκηνοῦσιν αὐτὴν τόποις ἀποτυμπανισμὸς ἔσται (*ibid.* 140,8-12) if the Moon is totally eclipsed during the first or second hour in Scorpio, then in Ethiopia and places where she is worshipped there will be an *apotumpanismos* (crucifixion or perhaps "exposition on a board").

⁷³ Cf. Balamoshev, ΑΠΟΤΥΜΠΑΝΙΣΜΟΣ, 26-30 (and *passim*). Punish with death: Eus. H.E. 5.1.47; decapitate: Athenaeus 4.40; beat: Plutarch *Superst.* 169F-170A, Themistius *Orat.* 21 (Βασανιστῆς ἢ φιλόσοφος), 251A-B (μειράκια ἀπο- τυμπανίζειν beat young students), SB 20.15001.[20-25] (προσαποτυπα[ν]ίσωσ[ιν] με.) is clarified by ἔχοντες ῥοπάλια [having clubs]; kill destroy: Josephus *C. Ap.* 1.148, Plutarch *Soll. an.* 968E.

tant implications for the understanding of *σταυρός* in the NT. A very important fresco found in the Arieti tomb illustrates the meaning of *patibulum*.⁷⁴

3.1 *The Meaning of Patibulum*

There have been comprehensive discussions, chronologically and semantically, of this difficult word in the last sixty years, and they are not entirely in accord with the definitions in the OLD.⁷⁵ *Patibulum* has been confused with *crux* and *furca*, words to which it is related. Therefore it is necessary to use the best philological research on this difficult word (primarily the ThLL entry written by Paolo Gatti, but also the scholarship he built his work on including that of Guy Serbat and others). The semantics of *patibulum* is crucial for understanding what a Roman criminal sometimes had to carry through the streets before being raised up on a vertical beam (*crux* or *stipes*). The Latin texts which depict such spectacles provide the necessary background for understanding John 19:17 and the similar statements in the Synoptic Gospels (Mark 15:21 par) concerning Simon of Cyrene.

3.1.1 *Latin (pagan) authors and patibulum*

Guy Serbat summarizes well the problem of the word's meaning based on his review of its usages,

One may observe that in the three senses below, *patibulum* expresses the idea of a horizontal extension to the exclusion of all vertical [extension]. In its most frequently attested use, that of an instrument of punishment, the meaning of *patibulum* has been obscured by its confusion with *furca* and *crux*.⁷⁶

The etymological derivation of *patibulum* is from the verb *patere*, which means “to stretch out” or “spread out.” The entry in the ThLL is as follows:

⁷⁴ Cf. § 3.2 below and figures 1-2. The material below is largely from the author's John 19:17 and the Man on the Patibulum in the Arieti Tomb, EC 4 (2013) 427-53, esp. 437-46.

⁷⁵ H. Blümner, *Die römischen Privataltertümer*, Munich 1911, 295-296, C. H. Brecht, *patibulum*, PRE XVIII (1949) 2167-69, G. Serbat, *Les dérivés nominaux latins à suffixe médiatif*, Paris 1975, 54-58, OLD s.v. *patibulum*, ThLL X/1.706.48-708.30 s.v. *patibulum* (P. Gatti), Libitina. Pompes funèbres et supplices en Campanie à l'époque d'Auguste, ed. F. Hinard and J. C. Dumont. Paris 2003, 117-118 (a research group comprising N. Belayche, J. C. Dumont, D. Conso, F. Hinard, C. Lovisi, and P. Moreau). Cf. also M. Hengel, *Crucifixion in the Ancient World and the Folly of the Message of the Cross*, Philadelphia 1977, F. Parente, *Patibulum, crux, furca*: Alcune osservazioni a proposito di un libro recente [a review of Hengel], RFIC 107 (1979) 369-378, here 373-374, H.-W. Kuhn, *Die Kreuzesstrafe*, 681, 705, and Samuelsson, *Crucifixion*, 286 n. 109 (where he refers to the existence of the entry in the ThLL for *patibulum*, but does not use it).

⁷⁶ Serbat, *Les dérivés nominaux*, 56.

[It is from “stretch out,”⁷⁷ and similarly as far as the form is concerned, “hiding place” is from “to hide” Sch.]

[*iuxta patēre similiter, quod ad formam attinet, ac latibulum iuxta latēre*. Sch.]⁷⁸

Part of the entry comprising the definitions of *patibulum* in the ThLL is:⁷⁹

Usually the same as “wooden beam,” “length of wood” (especially that by which someone or something is stretched out, extended; used a little differently in IIA2 and 3); I. in customary usage an instrument of punishment; that is to say more precisely a wooden beam to which an individual who is to be punished is attached with outstretched arms, v. e.g. p. 707, 6. 8; less precisely such a beam attached to an upright beam, e.g. p. 707, 32. 57; it is confused with the *furca* l. 66. Certain texts approach “*crux*” as a synonym, e.g. p. 707, 22. 24. 34 and often ...⁸⁰

*fere i. q. asser, palus (imprimis quo quis vel quid panditur, extenditur; paulo aliter sub IIA2 et 3).*⁸¹ *I. usu sollemni significatur instrumentum supplicii; sc. strictius asser, cui puniendus brachiis extensis affigitur, v. e.g. p. 707, 6. 8;*⁸² *laxius talis asser palo recto coniunctus, e.g. p. 707, 32. 57;*⁸³ *confunditur cum furca l. 66.*⁸⁴ *accedunt pro syn. crux e.g. p. 707, 22. 24. 34*⁸⁵ *et saepe ...*

These results cohere almost exactly with those of Serbat and Christoph H. Brecht. All make the point concerning the presence of a semantic marker, “+horizontal,” in the word’s meaning.⁸⁶

⁷⁷ This can mean also “to extend in space, stretch or spread out” (OLD s.v. *pateo* 7).

⁷⁸ ThLL X/1.706.48-49 s.v. *patibulum*. “Sch.” is Manfred Scheller. Cf. Thesaurus – Geschichten. Beiträge zu einer Historia Thesauri linguae Latinae von Theodor Bögel (1876-1973) mit einem Anhang. Personenverzeichnis 1893-1995, ed. by D. Krömer and M. Flieger, Stuttgart/Leipzig 1996, 207.

⁷⁹ ThLL X/1.706.70-75 s.v. *patibulum*.

⁸⁰ Author’s trans.

⁸¹ IIA2 = X/1.708.12-15 s.v. *patibulum* (the example from Titinius with Nonius’s comment to be discussed below). IIA3 = X/1.708.15-17 (the text in CGIL V to be discussed below). The texts Gatti places under heading II are *usus peculiares* (particular usages). Cf. X/1.708.2-29.

⁸² Pl. Carb. frag. 2 (see below) and Cic. Ver. 2.4.90.

⁸³ Heges. De bello Iudaico 5.18.3 (CSEL 66, 337,15 Ussani; cp. Josephus B.J. 5.451) and Max.-Taur. Sermon. 37.3 (CChr.SL 23, 178 Mutzenbecher).

⁸⁴ Isid. Orig. 5.27.34.

⁸⁵ Apul. Met. 6.31.1, 10.12.4, Prud. Peri. 10.641 *Crux illa nostra est, nos patibulum ascendimus* (that *crux* is ours, we ascend our *patibulum* [my trans.]). This last sense is certainly present in patristic literature, but Apuleius probably uses it *pars pro toto* (part for the whole), and so the occurrences in his text belong with the “less precise sense” (a beam attached to an upright beam). Cf. Hinard/Dumont, Libitina, 118, Brecht, *patibulum*, 2168-2169. In Lact. Inst. 4.26.34 *patibulum* and *crux* seem to be used synonymously.

⁸⁶ The + means “present” as opposed to – (“absent”) in the analysis of a word’s meaning. See Brecht, *patibulum*, 2167-2169, here 2167 (*patibulum* and *furca* are never used at the same time), 2169 (Isidore’s confusion of the two terms took place after Constantine had abolished crucifixion when it was replaced with execution by *furca*). For the use of markers in semantics, cf. Baldinger, Semantic Theory, 104-109.

One of the special meanings of *patibulum* is a horizontal bar used as a roost for sleeping chickens. A glossator writes:

And *patibulum* means a bed, that is a pole, on which sleeping chickens are placed.

*dicitur et patibulum trames id est pertica in qua pulli dormientes adpensi sunt [sic].*⁸⁷

The ThLL interprets the word here to mean a bar placed in a hen-house (*per-tica in gallinario posita*).⁸⁸ The glossator is still aware of the primary sense: “bar.”

There is clear proof that the horizontal meaning of the word was very old. A text of Nonius Marcellus (probably the Severan era)⁸⁹ preserves a fragment of one of Titinius’s comedies. Nonius introduces his quotation of Titinius by noting:

A *patibulum* is a bar by which doors are shut, because when one removes it, the doors open.

Titinius, *The Fullers’ Trade*: “If someone besides this comes today and knocks on our door, I will strike him on the head with this bar.”

Patibulum, sera qua ostia obcluduntur; quod hac remota valvae pateant.

*Titinius Fullonibus: si quisquam hodie praeter hanc posticum nostrum pepulerit, patibulo hoc ei caput diffringam.*⁹⁰

Titinius probably dates to early II B.C.E.⁹¹ *Patibulum*, because of the context in Nonius, means a “horizontal bar” in Titinius’s comedy.

A description of viniculture from Pliny is further reason for interpreting *patibulum* to mean a simple horizontal bar (ThLL IIA1).

A farmer of Navara, not content with a multitude of shoots carried from tree to tree nor with an abundance of branches, also twines the main branches round ...

⁸⁷ ThLL X/1.708.16-17 s.v. *patibulum*. My trans. The text is from Placidus Codicis Parisini (Corpus glossariorum latinorum [CGIL], vol. 5, ed. G. Goetz, Leipzig 1894, 130,22-5 [and cp. 91,9]) = Glossarium Ansileubi § 772 (Glossaria latina iussu Academiae britannicae edita, vol. 1, ed. W. M. Lindsay and J. F. Mountford, Paris 1926, 428). One of the meanings of *appendo* is “weigh out” (cf. OLD s.v. § 2), and since chickens roost on the top of objects, “to cause to be suspended, hang” (ibid, § 1) is an inappropriate translation.

⁸⁸ ThLL IIA3 (an outline level in the entry for *patibulum*) = ThLL X/1.708.15-16 s.v. *patibulum*. My trans.

⁸⁹ Because of the cluster of authors (160-210 C.E.) that Nonius quotes, P. T. Keyser, Late Authors in Nonius Marcellus and Other Evidence of His Date, HSCP 96 (1994) 369-89, argues for a Severan date.

⁹⁰ ThLL X/1.708.12-15 s.v. *patibulum*. My trans. Nonius Marcellus (Non.) De comp. doct. IV (BiTeu, 2.582 Lindsay = 366,12-18 Müller). Titinius frag. 11 (Titinio e Atta, Fabula togata. I frammenti, ed. T. Guardí. Milan 1984, 38,32-40,33). Samuelsson, Crucifixion, 153 does not cite the text of Titinius or the comments of Nonius. On *sera*, cf. OLD s.v. and A. Zestermann, Die bildliche Darstellung, 19.

⁹¹ P. G. M. Brown, Titinius, ³OCD 1532.

*Novariensis agricola, traducum turba non contentus nec copia ramorum, inpositis etiamnum patibulis palmites circumvolvitur.*⁹²

The last few words should probably be translated “*patibula* (bars) that have been set in place.” “Fork-shaped props for vines” is logically possible here, but “bars” is the only clearly attested sense.⁹³ Serbat makes the point that the forked supports are called *furcillae* or *furcae bicornes* and not *patibula*.⁹⁴ F. D. Allen believes that Pliny is referring to a rod that was placed between trees to support the vines.⁹⁵ His point is that *furca* and *patibulum* can be confused. The ThLL is more forceful: the word has been confused with *furca*.⁹⁶ In addition it would be unusual for *inpositis* to imply “planted in the earth” (*inpositis terrae*).⁹⁷ The word *tradux* also implies horizontal extension.

⁹² Plin. Nat. 17.212 = ThLL X/1.708.10-12 s.v. *patibulum*. Trans. of Pliny, Natural History, vol. 1-10, LCL, ed. and trans. H. Rackham, Cambridge, MA/London 1938-63, 5.207 (Rackham translates *inpositis* ... *patibulis* as “forked props set in the ground”).

⁹³ OLD s.v. § 2 adopts the first possibility (for this text and Cato Agr. 26, 68), which the editors took from the entry in A Latin Dictionary Founded on Andrews’ Edition of Freund’s Latin Dictionary, ed. E. A. Andrews, W. Freund, C. T. Lewis and C. Short, Oxford 1879 s.v. § IIa. Lewis and Short themselves revised W. Freund’s entry. Freund (Wörterbuch der lateinischen Sprache, vol. 3, Leipzig 1845 s.v. § IIa) translated *patibulum* in Pliny’s text as “eine Stange” (a stake). That translation is unlikely because vine-props (*pedamenta*, *sudes*, *ridicae*, *pali*, *pedamina*, *adminicula*, *statumina*) were not changed after each harvest [cf. Col. 4.26.1], and Cato Agr. 26 writes that the *patibula* used in viniculture were stored after each vintage. Cf. Serbat, Les dérivés nominaux, 55-56; to be contrasted with ThLL X/1.708.3-7 s.v. *patibulum* (on Cato and Pliny) which is circumspect (*instrumentum quoddam in vitibus curam adhibitum [de modo -i adhibendi dubitatur: apud PLIN. significatur palus, stipes sim., quo palmites aliquo modo ducuntur; sic etiam locos CATONIS explicat White, Farm Equipment, 1975, 22, sed machinam, qua prela extolluntur, intellegit Hörle, Catos Hausbucher, 1929, 213 sq....]* [some kind of apparatus]).

⁹⁴ Serbat, Les dérivés nominaux, 55-56. Cp. Plin. Nat. 14.32 in his discussion of two particular varieties of vine. *furcas subdere iis necessarium* (they require to be supported on forked props [trans. of Rackham, Pliny, 4.207]).

⁹⁵ F. D. Allen, On ‘Os Columnatam’ (Plaut. M. G. 211) and Ancient instruments of Confinement, HSCP 7 (1896) 37-64, esp. 42-3.

⁹⁶ ThLL X/1.706.74 s.v. *patibulum* with reference to Isid. Orig. 5.27.34 (ibid. X/1.706.65-67).

⁹⁷ Serbat, Les dérivés nominaux, 56. For Pliny (Nat. 36.73) *inpositus* implies “set in place” and not “planted.” Cp. his discussion (a possible explanation for changes in the sun dial’s readings) of the obelisk whose foundations were reputed to be the same depth as the height: ... *sive inundationibus Tiberis sedimento molis facto, quamquam ad altitudinem inpositi oneris in terram quoque dicuntur acta fundamenta* (“... or floods from the Tiber may have caused the mass to settle, even though the foundations are said to have been sunk to a depth equal to the height of the load they have to carry”; trans. of Rackham, Pliny. Natural History, 10.59). Note the *inpositi oneris* (“load set in place”). Cp. Flor. Epit. 1.7 (olim 1.13.11) *pontifices et flamines quidquid religiosissimi in templis erat partim in doleis defossa terra recondunt, partim inposita plaustris se cum Veios auferunt* (the pontiffs and priests dug holes and buried some of the most sacred objects which were in the temples and carried off

The OLD definition of *tradux* is: “a side-branch of a vine trained across the space between trees in a vineyard.” It refers to texts such as Varro’s comment on arbors: *arbusta, ubi traduces possint fieri uitium* (arbors where branches can be made of vine shoots).⁹⁸ *arbusta* (arbors) are an example of the transverse bars (*transversa ... iuga*), to be distinguished from the vertical vine-stakes (*pedamenta*).⁹⁹ For Varro *arbusta* made of vine shoots are one of four genera of transverse bars (*Iugorum genera fere quattuor, pertica, harundo, restes, vites* [there are approximately four kinds of transverse bars: pole, reed, ropes, vine shoots]).¹⁰⁰ Columella describes them so: *traduces in proximam quamque arborem mittendae* (the cross branches should be sent to whatever tree is nearest).¹⁰¹ Note that *pertica* according to the glossator¹⁰² is a synonym of *patibulum* (or in the same “semantic field”). Serbat argues forcefully that the *patibula* should be interpreted as horizontal perches for the vines, since the rectilinear movement of the vines needs to be directed (and not the “turns” that a forked prop would guide).¹⁰³

Cato’s two statements that refer to *patibula* do not offer much clarification.

After the vintage is over order all the pressing utensils, hampers, baskets, ropes, *patibula*, and bars to be stored, each in its proper place.

*Vindemia facta, uasa torcula, corbulae, fiscinas, funis, patibula, fibulas iubeto suo quidquid loco condi.*¹⁰⁴

Josef Hörle’s attempt to interpret *patibula* in this text to refer to a “saw horse” (i.e., two inverted V’s and a cross-bar) type of structure that supported the long beam of a wine press fails due to the fact that he attempts to identify *patibulum* with *furca*.¹⁰⁵ The only evidence he appeals to is a text from Livy in which *furcae* are used to support *spectacula*. With no cited evidence, he assumes that *furca* in Livy’s text is a synonym for *patibulum*.¹⁰⁶

others with them on wagons to Veii, trans. of Florus, *The Epitome of Roman History*, LCL, ed. and trans. E. S. Forster, New York/London 1929, 43). See ThLL VII/1.650.29-660.70 s.v. *impono* (J. B. Hey).

⁹⁸ Var. R. 1.8.3.

⁹⁹ Var. R. 1.8.1.

¹⁰⁰ Var. R. 1.8.2.

¹⁰¹ Col. 5.6.30.

¹⁰² CGIL 5, 130,22-5 = Glossarium Ansileubi § 772.

¹⁰³ Serbat, *Les dérivés nominaux*, 56.

¹⁰⁴ Cato Agr. 26 (cp. 68), trans. of Marcus Porcius Cato, *On Agriculture*, LCL, trans. W. D. Hooper and H. B. Ash, Cambridge, MA 1934, 45 (who have “props” for *patibula*).

¹⁰⁵ J. Hörle, *Catos Hausbücher. Analyse seiner Schrift De Agricultura nebst Wiederherstellung seines Kelterhauses und Gutshofes*, SGTK 15/3-4, Paderborn 1929, 212-13.

¹⁰⁶ Hörle, *Catos Hausbücher*, 213 with ref. to Liv. 1.35.9 (*spectavere furcis duodenos ab terra spectacula alta sustinentibus pedes* [they got their view (of the spectacles) from seats raised on props to a height of twelve feet from the ground, trans. of Foster, Livy, 1.129-31]). K. D. White, *Farm Equipment of the Roman World*, Cambridge et al. 1975, 22 also, without

The “less precise” sense (a beam attached to an upright beam)¹⁰⁷ noted by the ThLL is present in Tacitus and Apuleius.¹⁰⁸ In Latin texts *patibulum* implies the horizontal spreading of the victim’s hands.¹⁰⁹ One slave predicts another’s bleak future in Plautus’s *The Braggart Warrior*. The slave who is to suffer is standing in a doorway blocking it, presumably with his arms outstretched.

I suppose you’ll soon have to go out of the gate in a posture like that with your hands spread out, because you’ll have a *patibulum*.

*Credo ego istoc exemplo tibi esse pereundum*¹¹⁰ *extra portam, / dispessis manibus, patibulum quom habebis.*¹¹¹

One who bore the *patibulum* (horizontal bar) through the streets could be flogged by the executioners:

O sieve of the executioners, which I believe you will be: so they will pierce you – patibulated [with hands fastened to the bar] – with goads through the streets if the old man returns.

O carnufic<i>um cribrum, quod credo fore: / Ita te forabunt patibulatum per uias / Stimulis, † si huc reveniat senex.¹¹²

argument, assumes that *patibulum* is the equivalent of *furca*, a temporary fork-shaped prop used in viticulture.

¹⁰⁷ ThLL X/1.706.73 s.v. *patibulum*.

¹⁰⁸ Texts in which the part (*patibulum*) stands for the whole (*pars pro toto*) include: Tac. Ann. 1.61.4 (*quot patibula captis*), 4.72.3 (*patibulo adfixi*), 14.33.2 (*caedes patibula ignes cruces* [here *patibula* in the *pars pro toto* use are to be distinguished from the vertical beams alone with no *patibula*, i.e., the *cruces*]), Hist. 4.3.2 (*patibulo adfixus*), and Apul. Met. 6.31.1, 3 (*patibulo suffigi ... cruces*), 10.12.4 (*patibulo suffigitur*). None of them describe a criminal carrying a *patibulum*. Cf. Hinard/Dumont, Libitina, 118.

¹⁰⁹ Hinard/Dumont, Libitina, 117, Parente, *patibulum*, 373.

¹¹⁰ Pl. Mil. 359 (CUFr IV, 196 Ernout). *esse pereundum* is a correction for *esse perfundum* in MS A (Ambrosianus Palimpsestus (G 82 sup.), saec. IV-V). Other manuscripts’ variations are *esse eundum* and *esset eundem*.

¹¹¹ Pl. Mil. 359-360, cp. 352-353. The ref. is probably to the Esquiline Gate. Trans. of K. M. Coleman [in a private communication]. M. Hammond (T. Macci Plauti Miles Gloriosus, ed. with an intro. and notes by M. Hammond et al., rev. by M. Hammond, Cambridge, MA 1997, 109) argues that “The *patibulum* ... was a crossbar which the convicted criminal carried on his shoulders, with his arms fastened to it, to the place for execution. Hoisted up on an upright post, the *patibulum* became the crossbar of the cross.” Cp. Sen. frag. 124 (BiTeu 42, Haase) *extendendae per patibulum manus* (hands are to be stretched out on a *patibulum*), describing an individual about to die. In Sen. Dial. 7.19.3 individuals nailed to crosses spit on spectators from their *patibula* (*ex patibulo suo spectatores conspuerunt*) and cp. Dial. 6.20.3 *alii brachia patibulo explicuerunt* (others spread out [their victims’] arms on the *patibulum*). Seneca’s texts demonstrate the *patibula* were an integral part of the crucifixions (i.e., the *patibula* had not been removed from the condemned individuals).

¹¹² Pl. Most. 55-57. The † signifies a lacuna. Cp. the use in Apul. Met. 4.10.3-4, where a bandit chieftain’s hand is nailed to the panel of a door, “patibulated by a deadly bond” (*exi-*

Patibulum (“bar”) was intimately associated with *crux* in certain texts. Nonius again discusses *patibulum* in a passage in which he quotes Clodius Licinus and Plautus.

Patibulum is neuter in gender. It is in the masculine in Licinus’s *Roman Histories*, book XXI: “One fastens to *patibuli*. People are fastened and led around and then are nailed to a cross.” In Plautus’s *Charcoal Comedy*: “Let him carry the *patibulum* through the city, then let him be nailed (or fastened) to a *crux*.”

PATIBVLVM genere neutro.

Masculino Licinus Rerum Romanarum lib. XXI: deligat¹¹³ ad patibulos.

deligantur et circumferuntur, cruci defiguntur.¹¹⁴

Plautus Carbonaria: patibulum ferat per urbem, deinde adfigat^{ur} cruci.¹¹⁵

In this text the *patibulum* is associated with crucifixion. Licinus does not say that the individuals were nailed to their *patibula* while being led around. *deligantur* probably implies that the victims were lashed to their *patibula* with ropes or some other fetter. At no point in either text does the author say that the victim was released from the *patibulum* and then attached to the cross (*crux*, probably “beam” in this context) without the *patibulum*. Of course, it is possible that in some cases the condemned were temporarily released from the *patibula* which were subsequently lashed to the vertical posts. The most probable interpretation of both texts is that the *patibulum* designates the hori-

tiabili nexu patibulatum...). *patibulatum*, cj. Scaliger. B. L. Hijmans, however, argues that one should leave the *patibulum* of the MSS tradition and translates so, “and leaving him fatally riveted as a living bar to the door” (Apuleius, *Metamorphoses*. Book IV, 1-27, trans., intro. and comm. B. L. Hijmans, Groningen 1977, 83). *patibulum* then becomes a pun between its use as a horizontal bar used to secure the panels of a double door (*valvae*) and the beam (or board) put on the shoulders of one who is to be crucified (with ref. to Pl. Carb. frag. 2 and the text from Non. De comp. doct. IV [2.582 Lindsay = 366,15-16 Müller] quoted above [*patibulum ... valvae pateant*]). ThLL X/1.706.42-47 s.v. *patibulatus* defends Hijmans’s position.

¹¹³ MS L (Lugdunensis [Voss. 4^{to}. 116], saec. Xⁱ-XIⁱ) has *deligata* here, but Lindsay rejects the reading. Peter accepts *deligata* (fastened) in HRRel, 2.78, frag. 3.

¹¹⁴ ThLL X/1.707.15-16 s.v. *patibulum* (the text from Licinus). My trans. Clodius Licinus (suffect consul in 4 C.E.) *Libri rerum romanarum frag. 3* (HRRel, 2.78,1-3 Peter). Cf. CIL I², p. 29 (fasti capitolini), Inscr It 13/1, 9b = CIL XIV 2801, Inscr It 13/1, 22, Inscr It 13/1, 24 = AE 1987, 163, CIL VI 1263, 1264 (all have *Clodius Licinus*) and J. Bodel, *Chronology and Succession 2: Notes on Some Consular Lists on Stone*, ZPE 105 (1995) 279-296, esp. 296 (entered office as a suffect consul on July 1). On his *libri rerum romanarum*, cf. also Peter, HRRel, 2.cvii-cviii. Suet. Gramm. 20 describes him as ex-consul and historian (*consulari, historico*) and a friend of Gaius Julius Hyginus, freedman of Augustus. Cf. C. Cichorius, (C.) Clodius Licinus 35, PRE IV/1 (1900) 77-9 and PIR² C 1167.

¹¹⁵ ThLL X/1.707.6-7 s.v. *patibulum* (the text from Plautus). My trans. Cf. Non. De comp. doct. III (1.327 Lindsay = 221,13-17 Müller) for the entire text. Pl. *Carbonaria*, fr. 2 (CUFr VII, 181,50 Ernout). The MSS have *adfigat* (let it [the *patibulum*] be attached).

zontal part of the cross.¹¹⁶ This corresponds perfectly with the pagan depictions of the T-shaped crosses in both the Puteoli and the Palatine graffiti (figures 5-7, 10) and with the *lex Puteolana* (chapt. 5 § 1.4). According to a text of Firmicus Maternus, a person, fastened to a *patibulum*, is raised onto the cross:

But if Saturn is found in conjunction with these, it shows us a deadly fate. For he who is detected in such crimes is punished with a severe sentence; fastened to the *patibulum*, he is raised on a cross ... it [Mars opposed to the Moon] causes individuals detected with criminal intentions to be raised on a cross.

*Si vero cum his Saturnus fuerit inventus, ipse nobis exitium mortis ostendit. Nam (in) istis facinoribus deprehensus severa animadvertentis sententia patibulo subfixus in crucem tollitur ... faciet homines <in> sceleratis cogitationibus deprehensos in crucem tolli.*¹¹⁷

Firmicus surely uses *crux* in its sense of “vertical beam” in the first part of the text.

A text of Cicero illustrates the use Romans made of *patibula* to stretch victims’ hands. Verres, the infamous governor of Sicily, wanted the statue of Mercury that Scipio Africanus had given the town of Tyndaris to commemorate their help in the defeat of Carthage. The senate of the town refused and instructed the town’s magistrate (*proagor*), Sopater, to deliver the message to Verres. The enraged governor had the hapless Sopater stripped. Sopater

¹¹⁶ Kuhn, Kreuzesstrafe, 681 draws this conclusion for the text of Plautus. Samuelsson, Crucifixion, 174 considers the possibility that carrying the *patibulum* and being attached to the *crux* might be two different kinds of punishment in Plautus – implying the permanent removal of the *patibulum*. While this is possible, it is an unnatural reading of the text. What is logically possible is not necessarily probable and cannot be given the same weight as the reading more consistent with Roman linguistic usage and historical practice. Neither Licinus nor Plautus say that the *patibulum* was removed and not attached to the *crux*, and there is no obvious reason for believing such to be the case. Zestermann, Die bildliche Darstellung, 22 also believed that the *patibulum* was removed before an individual was attached to a *crux* (with the exception of Firmicus Maternus’s depiction of the process given below). He does believe (ibid., 22-3) that in “the earliest times” an individual carried the *patibulum* to the post (*crux*) that was already set in place, but that after Cicero’s time an individual carried the horizontal and vertical members which were joined together. He can find no “direct evidence” for this, but instead uses the “indirect evidence” based on the synonymy of *patibulum* and *crux* in later texts (e.g. Tac. Ann. 15.44.4 [*Chrestiani*] *crucibus adfixi* and Ann. 4.72.3 *patibulo affigere*). He fails to notice that no ancient classical author describes a person carrying a *crux*. He could not have known that the *lex Puteolana* (chapt. 5 § 1.4) from the Julia-Claudian period depicts the *patibulum* brought to the *crux*, thereby refuting his hypothesis about a change in Cicero’s time (as does the fact that Licinus was suffect consul in 4 C.E. and so wrote after Cicero).

¹¹⁷ Maternus Mathesis 6.31.58, 59 = ThLL X/1.707.23 s.v. *patibulum*, trans. of Hengel, Crucifixion, 78 modified. MS A (Norimbergensis V 60 [1468]) has *tollitur*. D (Vaticanus Palatinus lat. 1418 [XV C.E.]) and N (Neopolitanus V A 17 [XV C.E.]) have *colligitur* (is bound). Cf. Firmicus Maternus, Mathesis, 3 vols., CUFr, ed. and trans. P. Monat, Paris 1992-97, 3.101 app. crit.

was placed astride the statue and bound to it (*divaricari ac deligari*).¹¹⁸ The townspeople expected to see him flogged, but Verres simply left him in the cold and rain until the cries of the onlookers forced the senate to accept Verres' request.¹¹⁹ Cicero adopts the usual meaning of *patibulum* (the horizontal bar the slaves carried through the streets while being flogged) in the following image:

Would you [i.e., Verres] use the statue of a Marcellus as a whipping block [*patibulum*] for the loyal dependents of his family?"

*tibi Marcelli statua pro patibulo in clientis Marcellorum fuit?*¹²⁰

This is a *pars pro toto* usage (part for the whole). Gaius Marcellus had been a benefactor of the town and province.¹²¹ These texts and the *lex Puteolana* mutually illuminate one another.¹²²

Around 395, Macrobius wrote of an episode that had appeared frequently in Latin literature.¹²³ His particular semantic contribution is his claim that *patibulum* is the equivalent of *σταυρός* (*stauros*).

1.11.3. In the four hundred seventy-fourth year after Rome's founding a certain Autronius Maximus beat his slave, tied him to a gibbet [*patibulum* "bar"], then drove him through the Circus before the start of the show. Outraged at this, Jupiter ordered a certain Annius,¹²⁴ in a dream, to tell the senate that he was displeased by such a cruel offense. 4. When Annius kept the vision to himself, his own son suddenly died, and after disregarding a second message, he himself suddenly became enfeebled. At long last, heeding the advice of friends, he had himself carried in a litter to the senate, where he told the whole story: he had scarcely finished when his health was immediately restored and he was able to leave the curia on his own two feet. 5. So by decree of the senate and the law of Maenius a day was added to the Circus Games, to propitiate Jupiter: it is called the *dies in-stauricius*, not (as some think) from the gibbet [*patibulum* "bar"] – that is, *stauros* [*σταυρός*] in Greek – but from the act of making whole again, as Varro (fr. 430 GRF

¹¹⁸ Cf. OLD s.v. *diurico* "To cause to stand, sit, etc., with legs well apart, place astraddle; to cause to spread or splay out."

¹¹⁹ Cic. Ver. 2.4.84-89.

¹²⁰ Cic. Ver. 2.4.90. Trans. of Cicero, *The Verrine Orations*, Vol. 1-2, LCL, ed. and trans. L. H. G. Greenwood, Cambridge, MA/London 1928-1935, 2.393.

¹²¹ Cic. Ver. 2.4.86.

¹²² On *crux* and *patibulum* in the *lex*, cf. chapt. 4 § 1.4.2.

¹²³ Cf. Macrobius (Macr.), *Saturnalia*. Books 1-2, vol. 1, LCL, ed. and trans. R. A. Kaster, Cambridge, MA 2011, xiv. A. Cameron argues the treatise was composed in the 430s (*The Last Pagans of Rome*, Oxford 2011, 231-272). He also (*ibid.*, 265-272) believes that Macrobius was a Christian. Cf. *Saturnalia* 2.4.11 where in an allusion to Matt 2:16, Macrobius writes that when Augustus heard of Herod's slaughter of the infants under two years of age in Syria, he joked that he would rather be Herod's pig than his son.

¹²⁴ Titus Latinius is the name of the individual in Livy and Valerius Maximus (§ 3.5).

1:362)¹²⁵ holds, noting that *instaurare* means “to replace the equivalent amount [*instar novare*].¹²⁶

1.11.3. anno enim post Romam conditam quadringentesimo septuagesimo quarto Atronus quidam Maximus servum suum verberatum patibuloque constrictum ante spectaculi commissionem per circum egit: ob quam causam indignatus Iuppiter Annio cuidam per quietem imperavit ut senatui nuntiaret non sibi placuisse plenum crudelitatis admissum. 4. quo dissimulante filium ipsius mors repentina consumpsit, ac post secundam denuntiationem ob eandem neglegentiam ipse quoque in subitam corporis debilitatem solutus est. sic demum ex consilio amicorum lectica delatus senatui rettulit, et vix consummato sermone, sine mora recuperata bona valitudine, curia pedibus egressus est. 5. ex senatus itaque consulto et Maenia lege ad propitiandum Iovem additus est illis Circensibus dies, isque instauraticius dictus est non a patibulo, ut quidam putant, Graeco nomine ἀπὸ τοῦ σταυροῦ, sed a redintegratione, ut Varroni placet, qui instaurare ait esse instar novare.

Clearly Macrobius understands σταυρός to mean *patibulum* (a horizontal bar and not “fork-shaped”) – given the contemporary usage of *stauros*.¹²⁷ He does not use the fairly rare loanword φοῦρκα (*furca*, fork) to translate *patibulum* into Greek. In Macrobius’s version of the tale, there is no mention of the slave’s subsequent execution, and it is probable that in his conception the slave was forced to carry a horizontal bar. Most other authors who tell the story call the object carried by the slave a *furca*.¹²⁸ Macrobius exemplified a challenge that the NT authors also had to face when confronted with the necessity of rendering what Latin authors called a “*patibulum*” into Greek. They chose the word they judged to be best suited: σταυρός (*stauros*).¹²⁹

Seneca, in one of his *Moral Essays*, gives a description of crucifixion that almost certainly uses *stipes* for the vertical beam of a cross and *patibulum* for the horizontal member:

Though they [philosophers] strive to release [unfasten] themselves from their crosses [*crucibus*]¹³⁰ — those crosses to which each one of you [those who do not practice virtue] nails himself with his own hand – yet they, when brought to punishment, hang each upon a single gibbet [beam *stipitibus*]; but these others who bring upon themselves their own punishment are stretched upon as many crosses as they had desires. Yet they are slanderous and witty in heaping insult on others. I might believe that they were free to do so, did not some of them spit upon spectators from their own cross [*patibulum*].

¹²⁵ Grammaticae romanae fragmenta, ed. H. Funaioli, Leipzig 1907.

¹²⁶ Macr. 1.11.3 (= ThLL X/1.707.28 s.v. *patibulum*), 1.11.5 (= ThLL X/1.707.38-39 s.v. *patibulum*). Cf. the discussion of *furca* below (§ 3.5) for other versions of this incident. Macrobius was praetorian prefect of Italy in 430 C.E. Trans. of Kaster, Macrobius, Saturnalia, 1.111-3 (he uses the rather vague “gibbet” for *patibulum*).

¹²⁷ This is also the position of the Latin/Greek glossaries. Cf. CGIL II 436, 47 Goetz σταυρός *hoc patibulum haec crux*, 553,51 *patibulum σταυρός*, 527,12 *patibulum staurus* and Charisius (IV C.E.) Gramm. (BiTeu 458,18 Barwick/Kühnert): *patibulum ὁ σταυρός (patibulum cross/stauros)*.

¹²⁸ See the section on *furca* (§ 3.5 below).

¹²⁹ Cf. Cook, John 19:17 and the Man on the Patibulum, 446-52.

¹³⁰ I.e., their own faults.

*Cum refigere se crucibus conentur – in quas unusquisque uestrum clauos suos ipse adigit – ad supplicium tamen acti stipitibus singulis pendent: hi qui in se ipsi animum aduertunt quot cupiditatibus tot crucibus distrahuntur. At maledici, in alienam contumeliam uenusti sunt. Crederem illis hoc uacare, nisi quidam ex patibulo suo spectatores conspuerent.*¹³¹

In this text it is apparent that the *patibulum* was an integral part of the cross and not a separate punishment. It is also not necessary to understand *stipes* (stake) to imply impalement here, since the individuals Seneca is discussing are hanging (*pendent*) from the beams. In his image the philosophers try to unfasten themselves from their crosses and so have not suffered the immediate death of impalement. *Patibulum* came to be a near synonym of *crux*.¹³² Seneca also writes in a dialogue on consolation to Marcia:

I see crosses there, not just of one kind but made differently by different individuals: some individuals suspended their victims with heads inverted toward the ground; some drove a stake (*stipes*) through their excretory organs/genitals; others stretched out their [victims'] arms on a *patibulum*; I see racks, I see lashes ...

*Video istic cruces ne unius quidem generis sed aliter ab aliis fabricatas: capite quidam conuersos in terram suspendere, alii per obscena stipitem egerunt, alii brachia patibulo explicuerunt; uideo fidiculas, uideo uerbera ...*¹³³

Here it is clear that the arms stretched out on a *patibulum* belong to people who are being executed, and Seneca sees *patibulum* as one variety of *crux*. It refers to the horizontal member of the configuration that was attached to the vertical beam. *Stipes* is Seneca's term for the object used for impalement. This narrative and his *Ep.* 14.5 are the only two textually explicit references to impalement in Latin texts (cf. § 1, § 3.4, and chapt. 1 § 2.3).

3.1.2 Christian Authors and *patibulum*

None of the MSS used by the *Vetus Latina* Johannes project (ed. P. H. Burton et al.) have *patibulum* for John 19:17.¹³⁴ This is also the case for the volumes

¹³¹ Sen. Dial. 7.19.3. Basore, from whom I take the trans., (Seneca, Moral Essays, vol. 2, LCL, ed. and trans. J. W. Basore, Cambridge, MA/London 1932] 149) notes that "the *stipes* was the upright part of the cross or gibbet, the *patibulum* the transverse beam." Sen. fr. 124 (BiTeu 42, Haase) has *extendendae per patibulum manus* (hands are to be stretched out on a *patibulum*) in a description of the honorable man who sees death near (quoted above). In Sen. Ep. 101.12 *crux* interchanges with *patibulum* (*patibulo pendere districtum* [hang stretched out on a *patibulum*]). Cp. Apul. Met. 4.10.4 (quoted above) for the tale of a thief whose hand was nailed against the panel of a door (fatally riveted as a living bar [to the door] *exitiabili nexu patibulum*). Cf. the *lex Puteolana* in chapt. 5 § 1.4.

¹³² See SHA Tyranni triginta 29.4: *imago in crucem sublata persultante vulgo, quasi patibulo ipse Celsus videretur adfixus*. Cf. chapt. 1 § 3.2.

¹³³ Sen. Dial. 6.20.3 The heads might merely be looking toward the ground. But the translation in Dial. 6.20.3 (CUFr, 41 Waltz) is clear (the heads are upside down).

¹³⁴ <http://www.iohannes.com/vetuslatina/index.html> (accessed 21 May 2012). Cf. § 3.2 below.

of the Gospels edited by Adolf Jülicher et al.¹³⁵ None of the Old Latin MSS uses *patibulum* for the object Jesus and Simon of Cyrene carried and which the disciples are exhorted to carry. This is the case for the other evidence (such as the patristic tradition) compiled for the Vetus Latina Database.¹³⁶ Tertullian uses *patibulum* nine times as a near synonym for cross, but never for the object Jesus or Simon of Cyrene carried (or the disciples of Jesus for that matter). In the Synoptic exhortations to lift up one's cross he uses *crucem*.¹³⁷ Ambrose, however, is an exception. He compares Isaac and Jesus: *ligna Isaac sibi uexit, Christus sibi patibulum portauit crucis* (Isaac carried the wood for himself, Christ carried the *patibulum* [bar] of the cross for himself).¹³⁸

The rarity of the use of the word *patibulum* in ancient Christian texts to describe the object Jesus carried is evidence that the Latin Christian authors adopted synecdoche – using the whole, *crux* (which they surely understood as a cruciform object), for the part (the transverse bar). Adapting such a difficult word (i.e., *patibulum*) for communicating with the Christian faithful in the churches could have posed problems.¹³⁹ It is intriguing that Tertullian, although not using *patibulum* to describe the object Jesus was forced to bear, indicates that he was aware of Roman practice. In his *Against the Jews*, he compares the wood Isaac carried to the wood of Jesus' passion: "Christ in his time carried the wood on his own shoulders attached to the horns of the cross with the crown of thorns placed on his head" (*Christus suis temporibus lignum humeris suis portauit inhaerens cornibus crucis, corona spinea capiti eius circumdata*).¹⁴⁰ For Tertullian the horns are the ends of the transverse

¹³⁵ Itala: Das Neue Testament in altlateinischer Überlieferung, 4 vols., ed. A. Jülicher et al., Berlin 1938-.

¹³⁶ Cf. the Vetus Latina Database (VLD), last accessed 19 Dec. 2013, for Matt 10:38, 16:24, 27:32, Mark 8:34, 15:21, Luke 9:23, 14:27, 23:26, John 19:17 (where Ambrose is an exception).

¹³⁷ Tert. Idol. 12.2 *crucem tuam tollas ... necesse est* (it is necessary for you to lift up your cross), Fuga 7.2 *qui non tollit crucem suam ...* (whoever does not lift up his/her cross), and cp. Cyprian, Ad Fort. 6 (*qui non accipit crucem suam ...* [whoever does not take his/her cross]).

¹³⁸ Ambr. Abr. 1.8.72 (CSEL 32.1, 549,20 Schenkl). This text is included in the VLD results for John 19:17. Augustine interprets Ps 87:10 Vulg. with reference to a *patibulum* (Aug. Psal. 87.9 [CChr.SL 39 Dekkers/Fraipont] *si enim in eo quod ait: extendi manus meas, crucis patibulum intellexerimus ...* [if then in that text which says, "I have spread my hands" we understand the *patibulum* of the cross ...]).

¹³⁹ Cp. its infrequency in classical Latin texts.

¹⁴⁰ Tert. Iud. 13.21. Cf. 10.6, where in a comparison with Isaac, he says Jesus carried the "wood of his passion" (*lignum[que] passionis suae baiulantis*), 13.20 *lignum sibi et Isaac filius Abrahæ ad sacrificium ipse portabat*; Marc. 3.18.2 *lignum sibi portaret ipse*. The edition used is Q. S. F. Tertulliani Adversus Iudæos mit Einleitung und kritischem Kommentar, ed. H. Tränkle, Wiesbaden 1964.

bar (*cornua essent crucis extima*).¹⁴¹ Hartwig Thyen notes that many patristic writers believed that Isaac carrying the wood of the burnt offering on his own shoulders, at the side of Abraham, was a “prefiguring type” (“vorrabbildenden Typos”) of Jesus’ own *via crucis*. Because the upright beam was already set in the ground at the place of execution, the condemned had to carry the horizontal beam to which they were nailed or bound.¹⁴²

3.2 *Excursus: Patibulum and σταυρός*

In John’s Gospel Jesus carried a σταυρός through the streets of Jerusalem (John 19:17). This is usually interpreted to mean that Jesus carried the transverse part of the cross and was then suspended while attached to it.¹⁴³ Raymond Brown, for example, argues that Jesus “carried a cross[beam] to the place of execution,” so the cross was not a simple upright: “... by synecdoche ‘cross’ could be used for crossbeam (Seneca, *De vita beata* 19.3) even as ‘crossbeam’ could be used for cross (Tacitus, *History* 4.3).”¹⁴⁴ In the *lex Puteolana* (II.12) the contractor is responsible for setting up crosses (*cruces*), and the condemned slaves (II.9) or the workers (II.10) bring the *patibula* to the upright beams already set in place.¹⁴⁵ The association of *patibulum* with the Greek *stauros* is illustrated by the narrative in Macrobius (§ 3.1.1 above).

The rich evidence, both literary and archaeological (the *lex Puteolana* [chapt. 5 § 1.4]), warrants the thesis that criminals frequently carried *patibula* before being raised onto their crosses, and the evidence also demonstrates that they were not released from the *patibula*. Since the word *patibulum* was not

¹⁴¹ Tert. Iud. 10.7. Cf. § 3.4 below. See also Tert. Marc. 3.18.4 in § 3.2.

¹⁴² H. Thyen, *Das Johannesevangelium*, HNT 6, Tübingen 2005, 736 with ref. to G. R. Beasley-Murray, John, WBC 36, Waco/Texas 1987, 344-345.

¹⁴³ Those who assume Jesus (or Simon of Cyrene) carried a *patibulum*, because of some of the Latin and Greek texts mentioned above, include: M.-J. Lagrange, *Évangile selon Saint Marc*, Paris 1947, 423-424 (σταυρός means beam, Y-shaped *furca*, or the T-shape with *patibulum*, which he views as the fundamental sense), idem, *Évangile selon Saint Jean*, Paris 1927, 489 (for details, he refers to his commentary on Mark), E. Klostermann, *Das Markusevangelium*, HNT 3, Tübingen 1950, 162-164 (the criminal was attached to the *patibulum* [“Querholz” (transverse beam)] and led to the beam already set in place at the site of execution; the *patibulum* was then fastened to the beam), D. Lührman, *Das Markusevangelium*, HNT 3, Tübingen 1987, 260 (σταυρός means beam, but he adopts the rest of Klostermann’s position above), E. Haenchen, John 2. A Commentary on the Gospel of John Chapters 7-21, Hermeneia, Philadelphia 1984, 192 (Jesus “carries his own cross, that is, the cross bar [*patibulum*, a fork-shaped gibbet], which was then fastened to the stem of the cross that had been driven into the ground”); and A. Yarbro Collins, Mark. A Commentary, Hermeneia, Minneapolis 2007, 737.

¹⁴⁴ R. E. Brown, *The Death of the Messiah. From Gethsemane to the Grave*, 2 vols., New York et al. 1994, 2.912-913, 948 (the brackets are his). On *ibid.*, 913 he defines the cross-beam, *patibulum* as “a bar for closing a door.” Sen. *De vita beata* 19. 3 = Dial. 7.19.3.

¹⁴⁵ Cf. chapt. 5 § 1.4 and 1.4.4 for references to setting up a cross.

available to John (and the Synoptic writers), *σταυρός* (*stauros*) was the natural choice (cp. Macrobius's choice above).¹⁴⁶ Although there are no prior examples (i.e., prior to the Gospels) in Greek literature known to the author in which an individual carries a *σταυρός* to execution, it may have been so used by Greek-speakers because of the subsequent use by pagan authors to be discussed below. The Gospel authors' avoidance of the obscure loanword *φοῦρα* (*furca*; it seldom appears before the Byzantine period) is important, because that particular punishment was not explicitly associated with crucifixion in Greek or Latin texts. The term referred to a V-shaped object, and Greek authors used the word to describe what was carried by slaves who were being scourged and led through the streets.

(1) The following argument depends upon the premise that since crucifixion was a Roman penalty, the evidence from the writers of classical Latin is the most reliable context from which a text such as John 19:17 can be interpreted with regard to the technical details concerning the practice of Roman crucifixion (cf. the frequent use of Latin terminology in the commentaries and monographs). Those authors had firsthand experience of crucifixion in a wide range of geographical and temporal locations, and Latin provides the precise terminology for the technical details. Pontius Pilate was responsible for the crucifixion and as a prefect would have followed the Roman *mos maiorum* (ancestral usage).¹⁴⁷

(2) One important detail from the technology of crucifixion that has perhaps been neglected in the contemporary scholarly literature is that in classical Latin texts the condemned *never* are depicted carrying a *crux* (cross, whether in the sense of "beam" or "a wooden frame on which criminals were exposed to die") to their place of execution. The cruciform shape (with *patibulum*) can be a meaning of *crux*.¹⁴⁸

¹⁴⁶ Macrobius may have been a Christian, as noted above (§ 3.1.1).

¹⁴⁷ On this concept in Roman law, cf. A. A. Schiller, *Roman Law. Mechanisms of Development*, The Hague et al. 1978, 253-268, 560-569, H. Rech, *Mos maiorum. Wesen und Wirkung der Tradition in Rom*, Marburg 1936, here 42 (on crucifixion).

¹⁴⁸ This statement is based on the following databases: Brepols Library of Latin Texts Series A and B, PHI CD ROM #5.3 Latin Texts, and Epigraphik-Datenbank Clauss / Slaby (http://oracle-vm.ku-eichstaett.de:8888/epigr/epigraphik_de). Cf. OLD s.v. *crux* § 1a for the two main senses of the word. Sen. Dial 6.20.3 shows that *crux* can mean the cruciform shape (i.e., the one with a *patibulum*) as does Tert. Marc. 3.18.4 *in antenna, quae crucis pars est, extremitates cornua vocantur* (on a yardarm, which is part of a cross, the extreme ends are called horns; trans. of Tertullian, *Adversus Marcionem* [ed. and trans. E. Evans, Oxford 1972] 1.225). Cf. ThLL IV.1255.7-1260.26, here 1255.51-54, 61-62 s.v. *crux* (O. Hey). Zestermann, *Die Kreuzigung*, 372 objects to G. C. Cobet's thesis that the condemned never carried the whole cross [*crux*], only the *patibulum* ("Quis autem Latine dixit umquam *ferre crucem*? Nemo hercle. Quid igitur dicebant? nam ex verbis recte intellectis ad rei quam quaerimus intelligentium pervenimus. *Crux* dicitur *poni*, *statui*, *figi*, *erigi*, *damnati in crucem aguntur*, *tolluntur*, *cruci affiguntur*, *defiguntur*, *suffiguntur*. Quid autem *ferebant* quum tra-

(3) This changed when the NT was translated into Latin and the word *crux* was used to describe what Jesus carried (or Simon of Cyrene).¹⁴⁹

(4) In non-Christian texts the fundamental syntactical constructions are *agere in crucem* (lead to a *crux*) or *tollere in crucem* (lift up on a *crux*) when the author wishes to depict an individual about to be placed on a *crux*.¹⁵⁰

(5) *Patibulum* is the term the classical authors and the *lex Puteolana* use to describe what some victims carried before they were attached to their crosses with their hands stretched out on the transverse beam.

Consequently, when John uses *σταυρός* to refer to the object that Jesus carried, because of the Roman usage he does not refer to the vertical beam (often called *crux* in texts such as the *lex Puteolana* [chapt. 5 § 1.4]), but with a very high probability refers to what the Latin authors called the *patibulum*.

This line of reasoning is based on both Roman historical practice and Latin philology, which one discovers in the existing evidence in the Roman authors and not in the ambiguities of the semantics of *σταυρός*. Normally one uses the larger context of a Greek text to determine which of the possible meanings of a word such as *σταυρός* is correct.¹⁵¹ In this case (John 19:17), the context that the commentators often use is Latin, and the argument above simply supplies additional philological and historical precision. One could object to the first premise by trying to disassociate John's portrayal of the crucifixion from Roman practice and assert that the author (or the source on which the author relied) knew nothing of Roman practice and that much of the narrative of the crucifixion is fictional. Even if the account in 19:17 were fictional,

herentur ad supplicium? Respondeto Plautus apud Nonium Marcellum p. 220: *patibulum ferat per urbem, deinde affigatur cruci*," cf. Cobet, *Annotationes criticae ad Charitonem*, Mn. 8 [1859] 229-303, esp. 276, his italics) by arguing that *patibulum* can mean the whole cross occasionally. Zestermann's argument fails because the texts above that include the *pars pro toto* usage of *patibulum* never describe a person carrying the object. Cf. § 3.1.1 above.

¹⁴⁹ Cf. § 3.1.2 above.

¹⁵⁰ Cf. chapt. 5 § 1.4.2 for *agere in crucem*. Examples of *tollere in crucem* are: [Caesar] B. Hisp. 20.5, Sen. Con. 7.6.pr., Cic. Ver. 2.5.168, SHA, Avidius Cassius 4.1-2, 4.6 (Vulcanius Gallicanus), Clodius Albinus 11.6 (Iulius Capitolinus), Pertinax 9.10 (Iulius Capitolinus), Macrinus 12.2 (Iulius Capitolinus), Severus Alexander 23.8, 28.2-5 (Aelius Lampridius), Maximini duo 8.7 (Iulius Capitolinus). Other expressions include: Suet. Gal. 9.1 *statui crucem iussit* (he ordered that a cross be set up), Dom. 10.1 *cruci fixis* (fixed to a cross), Serv. A. 1.277 *in crucem levatus* (lifted up on a cross), Mart. Sp. 9(7).3-4 *pendens in cruce* (hanging on a cross). There are other constructions (e.g., numerous examples of *ire in crucem* [go to a cross (i.e., "hell")]) in Plautus; Cic. Rab. Perd. 11 *crucem ad civium supplicium defigi et constitui iubes* [you have ordered that a cross be set up and established for the punishment of citizens]), but this should suffice.

¹⁵¹ Cf., for example, Baldinger, *Semantic Theory*, 15-17 and R. E. Whitaker, *Concordances and the Greek New Testament*, in *Biblical Greek Language and Lexicography. Essays in Honor of Frederick W. Danker*, ed. B. A. Taylor et al., Grand Rapids 2004, 94-107, here 94-95 and *passim*.

however, the thesis that John or John's source knew nothing of Roman crucifixion in Palestine beggars belief. If the argument is correct, then the cross John portrays is not a simple upright, but has both an upright beam and a *patibulum*.¹⁵² As I have shown above, no Roman author claims that the condemned were released from their *patibula* and then hoisted onto *cruces*, and Firmicus Maternus expressly says that they were raised onto their crosses while attached to the *patibula*.¹⁵³ Many authors describe individuals suspended from *patibula* (§ 3.1.1). The Puteoli and Palatine graffiti clearly show *patibula* attached to vertical beams, and the Arieti fresco is another depiction of an individual attached to a transverse beam.¹⁵⁴ One cannot entirely rule out the historical possibility that against the entire sum of evidence from the Latin speaking Roman world, Jesus carried what a pagan author would have called a *crux*. But in historical research one can only work with probability, and the probability given the Latin evidence is extremely – if not vanishingly – low.¹⁵⁵

John's use of σταυρός (*stauros*) to express what a Roman author would have called a *patibulum* was probably based on the practice of Greek authors before him (although I know of no surviving examples). According to the dream interpreter Artemidorus of Ephesus (second half of II C.E.),

Carrying one of the chthonic demons, either Pluto himself or Cerberus or another one from Hades indicates to the criminal who sees himself doing it that he will carry the cross. For the cross resembles death, and one who is about to be nailed to it first carries it.

Βαστάζειν τινὰ τῶν δαιμόνων τῶν χθονίων, ἢ αὐτὸν τὸν Πλούτωνα ἢ τὸν Κέρβερον ἢ ἄλλον τινὰ τῶν ἐν Ἄιδου, κακούργῳ μὲν ἰδόντι σταυρὸν βαστάσαι σημαίνει· ἔοικε γὰρ καὶ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων αὐτῷ προσηλοῦσθαι πρότερον αὐτὸν βαστάζει.¹⁵⁶

¹⁵² This also applies to the Synoptic accounts. Luke 23:26 in particular (ἐπέθηκαν αὐτῷ τὸν σταυρὸν φέρειν ὅπισθεν τοῦ Ἰησοῦ) makes much better sense when understood as laying a *patibulum* across Simon's shoulders as opposed to forcing him to drag a long post behind him – a practice never attested in classical Latin texts.

¹⁵³ *pace* Samuelsson, Crucifixion, 363, s.v. *patibulum* (does not use Firmicus Maternus or any of the graffiti).

¹⁵⁴ Cf. figures 1, 5-7, 10.

¹⁵⁵ One could enumerate every example of fictional, literary and historical allusions to crucifixion in the Republic and imperium mentioned by pagan Latin texts and set that number against zero (the number of texts in which individuals carry a *crux*). Next one could assert that it could have happened anyway (analogous, e.g., to the possibility that all the molecules of air in a room congregate in a cubic meter of space – the analogy is not perfect since the physical probability can be calculated). The probability of a *crux* having been carried is extremely small because of the evidence, but it does not violate natural laws. My thanks to colleague Professor Terry Austin (physics) for his remarks on probability and to Senior Lecturer Ian Morton (philosophy) who critiqued the argument above.

¹⁵⁶ Artemidorus Onir. 2.56. The example in Plutarch Sera 554A is well-known. H.-W. Kuhn, σταυρός, οὗ, ὁ *stauros* cross, in: Exegetical Dictionary of the New Testament. vol. 3,

Artemidorus was certainly aware of Roman crucifixion practice because he had traveled widely in Asia, Greece, and Italy.¹⁵⁷ For Artemidorus (cf. § 2.1 above) a σταυρός is made from several beams of wood and from nails (ἐκ ξύλων καὶ ἥλων) like a ship's mast (ἡ κατάρτιος).¹⁵⁸ If Artemidorus only thought a σταυρός was a pole, he would not have needed the plural ἐκ ξύλων that clearly implies two beams. His conception corresponds to the Tau-shaped structure that the word σταυρός brought to the minds of Lucian of Samosata (born ca 120 C.E.) and Barnabas.¹⁵⁹ Consequently, σταυρός in John (and the Synoptics) does not only mean "pole" in its primary sense, but can be the equivalent of the modern use of the word "cross."¹⁶⁰ In addition, σταυρός can mean, probably by means of synecdoche, what a classical Latin author would call a *patibulum*.

The result of this look at the Greek texts combined with the argument based on the Roman usage of *crux* and *patibulum* is the following: the precision of the Latin terminology was unavailable to the authors of the Gospels and other Greek writers such as Artemidorus, but all are nevertheless evidence for the practice of forcing condemned criminals to carry the transverse beam to their place of execution. Although one searches in vain for the precision of the *lex Puteolana* and Firmicus Maternus, for example, all the Greek authors were intimately familiar with the Roman technology of death; consequently, it is clear that they also were aware of *patibula* and chose the best form of expression available to them. The Arieti fresco, an engraving of Andromeda, the Puteoli graffito and the Palatine graffito are vivid artistic representations of *patibula* (figures 1, 3, 5-7, 10).

The natural corollary to the entire argument is that in John 20:25 the Gospel writer envisions nails having been used to attach Jesus to the *patibulum* – the same sort of *patibulum* that appears in the images that pagans created.

ed. H. Balz, Grand Rapids 1993, 267-270, here 268 mentions Chariton 4.2.7 and 4.3.10 (chapt. 3 § 3.1) as other examples of criminals carrying their *stauroi* before execution. The Latin and Greek evidence for carrying a *patibulum* or *stauros* (with the exception of the *lex Puteolana*, of course) was already discussed by J. Marquardt, *Das Privatleben der Römer*, vol. 1, Leipzig ²1886, 188. His entire discussion (ibid., 185-188) is still important even though some revision is necessary.

¹⁵⁷ Artemidorus Onir. 1.pr and 5.pr. Cf. S. R. F. Price, *The Future of Dreams: From Freud to Artemidorus*, PaP 113 (1986) 3-37, here 9-10, 26.

¹⁵⁸ Artemidorus Onir. 2.53. In Onir. 1.76 the hands of the crucified are "stretched out" (τὴν τῶν χειρῶν ἔκτασιν), and this also is evidence for what a Latin author would call a *patibulum*. See also Lucian Prom. 1 ἐκπετασθεὶς τῷ χεῖρῃ (hands outstretched).

¹⁵⁹ Lucian Jud. voc. 12, Barn. 9:8b. Cf. § 2.1 above.

¹⁶⁰ In contrast to the position of Samuelsson, *Crucifixion*, 309 (who does not use the texts of Lucian and Barnabas). Cf. also Cook, *Roman Crucifixions*, 2-3.

3.3 Summary

A fresco from the Arieti tomb depicts a man attached to a *patibulum* (horizontal bar) standing on the ground.¹⁶¹ A close up of the fresco indicates that the man's wrist was attached to the patibulum by some kind of fetter (figure two). An engraved bronze *cista* (*cistae* are round lidded boxes) from Palestrina includes a scene in which Andromeda stands on the ground with her arms stretched out nearly horizontally, attached to a bar that is supported by two vertical beams (see figure 3).¹⁶² Monique Halm-Tisserant classified this image in her superb collection of illustrations of Greek punishments as an "exposure on a Roman *patibulum*."¹⁶³ The *patibulum* of the tortured man is important for New Testament studies from several perspectives. From a semantic point of view, an elucidation of the meaning of the word illustrates the nature of the object some Roman criminals carried through the streets before they were attached to *cruces* ("posts" in this use of *crux*). From a historical point of view, the fresco of the *patibulum* in the Arieti tomb is one of the oldest depictions of an element of crucifixion (i.e., the transverse bar) in existence. The fresco and the semantics of *patibulum* are also relevant for the interpretation of the Gospel of John's portrayal of the crucifixion of Jesus. No classical author writes that an individual carried a *crux* before crucifixion. When they do mention the object an individual carried, they call it a *patibulum*, which the semantic investigation indicated was a lateral bar in that context. The writers of the Gospels, and in particular John (19:17), with only the Greek word *stauros* (σταυρός) available to them, chose to use that word to describe what Jesus carried (or Simon Cyrene, in the case of the Synoptics). One has to appeal to the precision of the Latin terminology to understand

¹⁶¹ See figure 1. Cf. Cook, John 19:17 and the Man on the *Patibulum*, 427-53.

¹⁶² Image from G. Lafaye, *Crux*, DAGR I/2, 1573-1575, here 1574 (identified as a *patibulum*). On this image, cf. Halm-Tisserant, *Réalités*, 197, Pl. 21, E 77 (Louvre Museum 1667, first half of III B.C.E.) and K. M. Phillips, *Perseus and Andromeda*, *AJA* 72 (1968) 1-23, here 13 (a "wooden rack"), figure 41 (a drawing of the entire engraved scene on the *cista*). In Apollodorus (Bibl. 2.43) Perseus finds Andromeda, the daughter of the Ethiopian king, exposed as food for the sea monster: εὔρε τὴν τοῦτου θυγατέρα Ἀνδρομέδαν παρὰ χειμένην βορὰν θαλασσίῳ κήτει. Lucian Dial. mar. 14.3 describes Perseus's view of her exposed on a projecting rock and "nailed" (i.e., attached) to it (ὁρᾷ τὴν Ἀνδρομέδαν προκειμένην ἐπὶ τινος πέτρας προβλήτος προσπεπαταλευμένην). Eratosthenes describes her constellation (Catast. 1.17): διατεταμένη τὰς χεῖρας, ὥς καὶ προετέθη τῷ κήτει (her hands are spread out, as she was exposed to the monster). Manilius 5.550-3 (era of Augustus and Tiberius) uses the image of crucifixion: *mollia per duras panduntur brachia cautes; / astrinxere pedes scopulis, iniectaque vincla, / et cruce virginea moritura puella pependit* (her tender arms were extended on the sharp cliffs; they bound her feet to the rocks and bonds were attached, and so the girl hung, about to die, on the virgin cross).

¹⁶³ Halm-Tisserant, *Réalités*, 180 with ref. to Sen. Dial. 3.2.2: *alium in cruce membra diffindere* (another stretched out his limbs on the cross), which implies the presence of a *patibulum* and Pl. Most. 55-59.

what John meant. The probability that John thought Jesus was forced to carry the vertical beam – a practice that the Romans did not use according to all the existing evidence – is nearly zero. Consequently, John should be interpreted to mean that Jesus was attached to a *patibulum* in 19:17, and that the nail marks in his hands (20:25) themselves indicate that in John's Gospel Jesus was then (i.e., 19:17) or later nailed to the bar.

3.4 *Crux and crucifigo*

Crux is either the vertical pole or the cross made of two members. The OLD defines it as “Any wooden frame on which criminals were exposed to die, a cross (sometimes also, a stake for impaling).”¹⁶⁴ Seneca's experience of various forms of *crux* in Roman executions is important as an illustration of the variety of meanings and is worth re quoting:

I see crosses there, not just of one kind but made differently by different individuals: some individuals suspended their victims with heads inverted toward the ground; some drove a stake (*stipes*) through their excretory organs/genitals; others stretched out their arms on a *patibulum*;

*Video istic cruces, non unius quidem generis, sed aliter ab aliis fabricatas: capite quidam conuersos in terram suspendere, alii per obscena stipitem egerunt, alii brachia patibulo explicuerunt.*¹⁶⁵

This text contradicts the position taken by certain scholars that *crux* only means the vertical stake of the execution device.¹⁶⁶ First, Seneca includes the

¹⁶⁴ OLD s.v. *crux*. Cp. A. Ernout and A. Meillet, Dictionnaire étymologique de la langue latine. Histoire des mots, Paris ⁴1967, s.v. *crux*: “désigne différent sort de supplice: pal [stake] (*in crucem suffigere*), potence [gibbet] (*pendere in cruce*), croix [cross] (*cruci affigere*).” It is questionable that the various verbs, however, which Ernout and Meillet use, actually do “pick out” the relevant sense of the term *crux*. On the process by which context enables a user of language to determine which meaning a polyvalent sign carries, see Baldinger, Semantic Theory, 15-17 and Whitaker, Concordances, 94-95 and passim. The OLD, for example, s.v. *suffigo* 2. has “To attach to the top of, fix aloft. b. *cruci, in cruce*, etc., ~gere, to fasten to a cross or other means of punishment, crucify; also ~gere alone.” Cf., e.g., Suet. Jul. 74.1 (chapt. 2 § 2.8). *Crux* (Stat. Silv. 4.3.28 [chapt. 1 § 2.11]) can perhaps mean the yoke of a wagon. Cf. Marquardt, Privatleben, vol. 1, ²1886, 187. In Plin. Nat. 14.12 (chapt. 1 § 2.6) a legate of king Pyrrus, commenting on a very dry wine, notes that its mother was suspended on a lofty cross (*merito matrem eius pendere in tam alta cruce*).

¹⁶⁵ Dial. 6.20.3.

¹⁶⁶ Samuelsson, Crucifixion, 286; Serbat, Les Dérivés nominaux, 56 argues that the original meaning of *crux* was the vertical part of the cross (*patibulum* is the horizontal part of the cross, according to him). Serbat, however, (ibid., 57) sees a diversity of meaning of *crux* in Dial. 6.20.3: the first *crux* is a stake (poteau) serving as a gibbet (gibet or potence); the second is a stake (pal), the third is a cross supplied with its horizontal *patibulum*. He translates *cruces* as “poteaux de supplice” (beams of punishment). The colloquium of Hinard and Dumont assert that *crux* can mean “pal, potence, croix” (stake, gibbet, cross). Cf. Hinard/Dumont, Libitina, 117.

stake (*stipes*) as one variety of *crux*. However, he distinguishes the *cruces* (crosses) from *stipes* (stake) in one of his letters to Lucilius, in which as an example of the spectacle (*pompa*) of evil, he sees crosses (*cruces*) and “the stake which they drive straight through a man until it protrudes from his throat (*cruces et ... adactum per medium hominem qui per os emergeret stipitem*)”¹⁶⁷ The language of impalement is clear in both texts (*alii per obscena stipitem egerunt* [some drove a stake through the private parts] and *adactum per medium hominem qui per os emergeret stipitem*). Seneca uses *stipes* (stake/beam) with *agere* or *adigere* (force, insert) to express impalement and this is to be clearly distinguished from the normal language of crucifixion (*agere in crucem* [lead to a cross], *tollere in crucem* [lift up on a cross], *cruci figere* [fasten or nail to a cross], etc.).¹⁶⁸ The conclusion to be made is that, with Seneca as a guideline, if a text does not use *stipes* then impalement is probably to be excluded. In Latin texts *crux* is not used in either syntactical construction used for impalement (i.e., *crucem per obscena egerunt* [they drove a cross through the excretory organs/genitals]; *crucem adactam per medium hominem quae per os emergeret* [a cross driven straight through a person until it protrudes from the throat]). In addition *stipes* does not necessarily imply impalement because of Seneca’s usage quoted above in § 3.1 (Dial. 7.19.3): *stipitibus singulis pendent* (they hang on individual beams). Nails are used in that context, and the philosophers are attempting to extricate themselves from their predicament. It is apparent in the same text that he envisions the *patibulum* as the horizontal member of a cross – given the evidence from Latin philology.¹⁶⁹

Tertullian describes the cross in terms which correspond exactly to the graffito of a crucified woman in Puteoli (figures 5-7; Trajanic Hadrianic era):

Part of the cross, and indeed the greater part, is every piece of wood which is fixed in a vertical position. But the entire cross is imputed to us, with its transverse part [yard arm] and with it the projecting seat.

*pars crucis, et quidem maior, est omne robur quod directa statione defigitur. Sed nobis tota crux imputatur, cum antemna scilicet sua et cum illo sedilis excessu.*¹⁷⁰

¹⁶⁷ Sen. Ep. 14.5, trans. of Seneca, *Ad Lucilium, Epistulae morales*, vols. 1-3, LCL, ed. and trans. R. M. Gummere, Cambridge, MA/London 1925, 1.85-7. Cf. § 1 above and chapt. 1 § 2.3.

¹⁶⁸ Cf. chapt. 5 § 1.4.2 for *agere in crucem* and § 3.2 above (*tollere in crucem*). For *cruci figere* see the discussion of *crucifigere* below.

¹⁶⁹ Dial. 7.19.3 (§ 3.1.1).

¹⁷⁰ Tert. Nat. 1.12.3-4. Cf. A. Schneider, *Le premier livre Ad Nationes de Tertullien*. Introduction, texte, traduction et commentaire, Rome 1968, 94-5 with commentary on 250-1. Cp. his use of *antemna* for the horizontal member of the cross in Marc. 3.18.4 (§ 3.2 above). The OLD defines *antemna* as “A yard of a sailing ship, sailyard, yard-arm.” Justin Dial 91.2 (227,15-7 Marc.) also describes the *sedile* and refers to a T-shaped cross (cf. § 2.1 above and Brown, *The Death of the Messiah*, 2.948). Iren. 2.24.4 *Et ipse habitus crucis fines et summi-*

The *sedile* (seat) is visible in the Puteoli graffito also. The cross is shaped as a T (tau). In *Against the Jews*, Tertullian compares Christ to the two horns of a bull:

For Joseph is also blessed by his father¹⁷¹ in these words: His elegance is that of a bull, his horns are the horns of a single-horned animal; on this he will brandish the nations alike to the end of the earth. For without a doubt no single-horned rhinoceros was intended nor a double-horned minotaur, but Christ was meant in that verse, a bull because of his two dispositions,¹⁷² to some fierce and a judge, to others gentle and a Savior, whose horns were the ends of the cross – for even on the yard arm of a ship, which is a part of a cross, by this word [i.e., horn] its extremities are named – the single-horned stake [or “unicorn”] is in the central pole of the mast.

Nam et benedicitur a patre in haec verba Ioseph: Tauri decor eius, cornua unicornis cornua eius; in eis nationes ventilabit pariter ad summum usque terrae. Non utique rhinoceros destinabatur unicornis nec minotaurus bicornis, sed Christus in illo significabatur, taurus ob utramque dispositionem, aliis ferox ut iudex aliis mansuetus ut salvator, cuius cornua essent crucis extrema – nam et in antemna navis quae crucis pars est hoc extremitates eius vocantur –, unicornis autem medio¹⁷³ stipite palus.¹⁷⁴

Tertullian repeats the text in his tractate *Against Marcion*:

... His glory is that of a bullock, his horns are the horns of a unicorn: with them will he winnow the nations together, even to the end of the earth, was certainly not intended to be a rhinoceros with one horn or a minotaur with two horns: rather in him Christ was indicated, a bullock according to both accounts, to some people stern as a judge, to others kind as a saviour, whose horns were to be the extremities of the Cross. For on a yard-arm, which is part of a cross, the extreme ends are called horns, while the unicorn is the upright middle post.

... *Tauri decor eius, cornua unicornis cornua eius, in eis nationes ventilabit pariter ad summum usque terrae: non utique rhinoceros destinabatur unicornis nec minotaurus bicornis, sed Christus in illo significabatur, taurus ob utramque dispositionem, aliis ferox ut iudex, aliis mansuetus ut salvator, cuius cornua essent crucis extrema. Nam et in antemna,*

tates habet quinque, duos in longitudinem, et duos in latitudinem, et unum in medio, in quo requiescit qui clavis adfigitur (the cross itself has the form of five ends and extremes, two in length, two in width and one in the middle, one on which one rests who is attached with nails). For an old but still useful discussion, cf. J. Pearson, *An Exposition of the Creed*, rev. ed. W. S. Dobson and J. Nichols, London 1832, 310 (original ed. 1659, much revised later).

¹⁷¹ Deut 33:17. Moses, not Jacob, is responsible for the blessing. Jerome translates the relevant part of the verse as: *quasi primogeniti tauri pulchritudo eius / cornua rinocerotis cornua illius / in ipsis ventilabit gentes usque ad terminos terrae*.

¹⁷² For a similar use of the word in Tert., cp. Apol. 18.1, 22.9.

¹⁷³ Evans (Tertullian, *Adversus Marcionem* 3.18.4 [1.224]) has *medius* here. Tränkle, following the MSS (Tertulliani *Adversus Iudaeos*, 27,23) has *medio*.

¹⁷⁴ Tert. Iud. 10.7. For the expression “horns” of a yard-arm, cp. Verg. A. 3.549 *cornua velatarum obvertimus antemnarum* (“we point seaward the horns of our sail-clad yards”). Trans. of Virgil, vol. 1, LCL, ed. and trans. H. R. Fairclough and G. P. Goold, Cambridge, MA/London 1999, 409. Cf. also Stat. Silv. 3.2.9 (*antemnae gemino ... cornu* [twin horns of the yard-arm]) and OLD s.v. *cornu* 7.e “either tip of a sail yard, yard arm.”

*quae crucis pars est, extremitates cornua uocantur, unicornis autem medius stipitis palus.*¹⁷⁵

Minucius Felix preserves an important image of the cross in his *Octavius* in which he denies that Christians worship the cross.

Quite true we see the sign of the cross naturally figured in a ship riding the swelling waves, or impelled by outspread oars; a cross-beam set up forms the sign of the cross; and so too does a man with outstretched hands devoutly offering worship to God.

*signum sane crucis naturaliter visimus in navi, cum velis tumentibus vehitur, cum expansis palmulis labitur; et cum erigitur iugum, crucis signum est, et cum homo porrectis manibus deum pura mente veneratur.*¹⁷⁶

The cross beam (*iugum* [cf. § 3.1.1 above]) corresponds well to the image of the *patibulum* as horizontal member of the cross.

The verb *crucifigo* (“to attach to a cross, to crucify”) is “often written as two words.”¹⁷⁷ I am aware of no usages in which it does not mean “attach to a cross” or “crucify.”¹⁷⁸ One of the elder Seneca’s accounts, discussed below, is based on the case of a son who is betrayed by his father who was supposed to ransom him from his captors. The son tells the ambassadors of his people who find him crucified to “beware betrayal” (*Illi pervenerunt ad crucifixum imperatorem; quibus ille dixit: “cavete proditionem”*). Clearly this is not a case of impalement since that would have resulted in an immediate death.¹⁷⁹

3.5 *Furca*

The *furca* itself had the form of a Y or a V (the V perhaps had an extra transverse bar resulting in something like a V-shape).¹⁸⁰ Several Greek texts illuminate the punishment by *furca*, which was not necessarily fatal. As an example of the difficulties a text from Plutarch’s *Coriolanus* depicts the public humiliation of a slave:

And it was a severe punishment for a slave who had committed a fault, if he was obliged to take the piece of wood with which they prop up the pole of a wagon, and carry it around through the neighbourhood. For he who had been seen undergoing this punishment

¹⁷⁵ Tert. Marc. 3.18.3-4, trans. of Evans, Tertullian, 225 (Latin text on 224).

¹⁷⁶ Min. 29.8, trans. of Tertullian, Minucius Felix, LCL, ed. and trans. T. R. Glover and G. H. Rendall, Cambridge, MA/London 1931, 407. Cp. Justin Dial. 91 (same image as Tert. above), 94, 112 (types? of the cross). Cf. § 2.1 above.

¹⁷⁷ OLD s.v. *crucifigo*. Examples of the verb written as two words are V. Max. 6.3.5 (*cruci fixit*), Plin. Nat. 8.47 (*cruci fixos*) Quint. Inst. 7.1.30 (*ducem cruci fixum*), [Quint.] Decl. min. 274.13 (*cruci figimus*), Suet. Dom. 10.1 (*cruci fixis*), 11.1 (*cruci figeret*).

¹⁷⁸ Sen. Con. 3.9.pr., Hyg. Fab. 194.8, 257.4 (*Phalaris autem Selinuntium crucifigi cum iuberet ... iubet duci Selinuntium in crucem*).

¹⁷⁹ Sen. Con. 7.7.pr. and cf. chapt. 1 § 1.14.

¹⁸⁰ Cf. the OLD, s.v. and Serbat, Les dérivés, 56 (who argues for the shape of a V). Fundamental to the discussion below is ThLL VI/1.1609.59-1610.82 s.v. *furca* (H. Rubenbauer).

no longer had any credit in his own or neighbouring households. And he was called *furcifer*; for what the Greeks call a prop, or support, is called *furca* by the Romans.

ἦν δὲ μεγάλην κόλασιν οἰκέτου πλημμελήσαντος, εἰ ξύλον ἀμάξης, ὃ τὸν ῥυμὸν ὑπερείδουσιν, ἀράμενος διεξέλθαι παρὰ τὴν γειτνιάσιν. ὁ γὰρ τοῦτο παθὼν καὶ ὀφθεῖς ὑπὸ τῶν συνοίκων καὶ γειτόνων οὐκέτι πίστιν εἶχεν. ἐκαλεῖτο δὲ φούρκιφερ· ὃ γὰρ οἱ Ἕλληνες ὑποστάτην καὶ στήριγμα, τοῦτο Ῥωμαῖοι φοῦρκαν ὀνομάζουσιν.¹⁸¹

Plutarch has another description of the penalty:

For anyone who had found guilty of some knavery a slave reared in his own household used to command him to take up the forked stick, which they put under their carts, and to proceed through the community or the neighbourhood, observed of all observers, that they might distrust him and be on their guard against him in the future. This stick we call a prop, and the Romans *furca* ("fork"); wherefore also he who has borne it about is called *furcifer* ("fork-bearer").

ὁ γὰρ οἰκότεριβος ἰδίου καταγνοῦς τινα μοχθηρίαν ἐκέλευε διπλοῦν ξύλον, ὃ ταῖς ἀμάξαις ὑφιστάσιν, ἀράμενον διὰ τῆς συνοικίας ἢ τῆς γειτνιάσεως διεξελεῖν ὑπὸ πάντων ὁρώμενον. ὅπως ἀπιστοῖεν αὐτῷ καὶ φυλάττειντο πρὸς τὸ λοιπόν· τὸ δὲ ξύλον ἡμεῖς μὲν στήριγμα, Ῥωμαῖοι δὲ 'φοῦρκαν' ὀνομάζουσι· διὸ καὶ 'φουρκίφερ' ὁ τοῦτο περιενεγκὼν καλεῖται.¹⁸²

In Dionysius of Halicarnassus's version of the tale quoted above in Macrobius's version (§ 3.1.1):

The men ordered to lead the slave to his punishment, having stretched out both his arms and fastened them to a piece of wood which extended across his breast and shoulders as far as his wrists, followed him, tearing his naked body with whips.

οἱ δ' ἄγοντες τὸν θεράποντα ἐπὶ τὴν τιμωρίαν τὰς χεῖρας ἀποτείναντες ἀμφοτέρας καὶ ξύλῳ προσδήσαντες παρὰ τὰ στήθια τε καὶ τοὺς ὤμους καὶ μέχρη τῶν καρπῶν διήκοντι παρηκολούθουν ξαίνοντες μάστιγι γυμνὸν ὄντα.¹⁸³

Probably Dionysius is describing a piece of wood bound across the slave's breast – presumably a V-shape. Joachim Marquardt understands this to mean

¹⁸¹ Plutarch Cor. 24.5 (Plutarch's Lives, vol. 1-11, LCL, ed. and trans. B. Perrin, London/New York 1914-26, 4.177-9) = 24.9-10 (BiTeu, Ziegler). Trans. of Perrin.

¹⁸² Plutarch Quaest. Rom. 70, trans. of Plutarch's Moralia vol. 1-15, LCL, ed. and trans. F. C. Babbitt et al, Cambridge, MA/London 1927-69, 4.107-109.

¹⁸³ Dionysius Halicarnassus Antiquitates Romanae 7.69.2. Trans. of The Roman Antiquities of Dionysius Halicarnassus, vol. 1-7, LCL, ed. and trans. E. Cary, Cambridge, MA/London 1937-1950, 4.355. Cp. Liv. 2.36.1 (*sub furca caesum medio egerat circo*, the master drove the slave bearing a yoke, scourged, through the circus), Cic. Div. 1.55 (*servus per circum, cum virgis caederetur, furcam ferens* a slave bearing a fork was beaten with rods throughout the circus), Lact. Div. 2.7.20-21 (*uerberatum serum sub furca medio circo ad supplicium duxerat* [a slave being beaten "under the furca" was led through the middle of the circus to execution]), and Aug. Civ. 4.26 (BiTeu I, 178, 19-20 Dombart/Kalb) ... *quod primo eorum* [the Roman games] *die in quodam scelerato, qui populo spectante ad supplicium duci iussus est ... imperium* (on the first day of the games, in the case of a criminal who had been condemned to death while the crowd watched, a command ...).

a V-shaped object that was attached to either end of the axle, to which the shaft of the wagon attached.¹⁸⁴ Valerius Maximus gives this version of the story:

A *paterfamilias*, before the commencement of the games, led his slave, beaten with lashes while tied to a yoke [*furca*], through the Circus Flaminius to execution.

*pater familias per circum Flaminium, prius quam pompa induceretur, servum suum verberibus mulcatum sub furca ad supplicium egisset ...*¹⁸⁵

Iulius Paris interprets Valerius to mean *ante pompae enim inductionem per circum a domino servum in crucem actum* (for before the commencement of the games a slave was led to the cross by his master), but makes no mention of the *furca*. He lived in the fourth or fifth century.¹⁸⁶ Probably he knew that the normal execution of slaves was by the cross. Arnobius is the only other author to explicitly associate the tale with a subsequent crucifixion (by a *patibulum*, a near synonym of “cross” in that context), but he mentions no *furca* in his account. His transformation of the tale depicts the slave beaten with rods and then executed according to custom by the penalty of the *patibulum*:

... once at those very games in the circus which take place for the Great Jupiter, before the show began, a master dragged through the center of the circus a slave really deserving severe punishment, beating him with rods, and afterwards inflicted on him the customary penalty of the cross [*patibulum*].

... ludis quondam ipsis circensibus, qui Iovi maximo fierent, patremfamilias quendam, antequam inciperent res agi, servum pessime meritum per circi aream mediam transduxisse caesum virgis et ex more multasse post patibuli poena.¹⁸⁷

The *furca* that slaves were forced to carry through the streets while being whipped could have had a V-shape and probably had a transverse bar (V) to keep the slave’s head in place.¹⁸⁸ This kind of punishment was, consequently, not by necessity fatal. In Plautus’s *The Two Menaechmuses*, one slave says to

¹⁸⁴ Marquardt, *Das Privatleben*, 1.185-6.

¹⁸⁵ V. Max. 1.7.4. Cp. Valerius Maximus, *Memorable Deeds and Sayings*. One Thousand Tales from Ancient Rome, trans. H. J. Walker, Indianapolis 2004, 28. Walker dates the event to 489 B.C. (apparently using the consular dating of Dionysius Halicarnassus 7.68.1 [in which the consuls are actually dated to 490 B.C.]).

¹⁸⁶ Iulius Paris Epit. 1.7.4 (BiTeu Valerius Maximus II, 652,15 Briscoe). The date: Briscoe, Valerius, I, xxi.

¹⁸⁷ Arn. 7.39, trans. of Arnobius of Sicca, *The Case Against the Pagans*, vol. 2, trans. and annotated by G. E. McCracken, ACW 8, Westminster, MD 1949, 523. Cp. his description of Christ’s death: 1.40 *Sed patibulo adfixus interiit* (he died fixed to the *patibulum* [cross]), 1.62 *Quis est ergo visus in patibulo pendere, quis mortuus?* (Who was seen hanging on the *patibulum*, who was dead?).

¹⁸⁸ H. F. Hitzig, *furca*, PRE 7 (1910) 305-307. Cp. Varro, L. 5.24.117... *singula ibi extrema bacilla furcillata habent figuram litterae V* (... the tips of the forked sticks there have the shape of the letter V). Cp. Ov. Met. 8.648 *furca ... bicorni* (fork with two tips) and a similar expression in Verg. G. 1.264 (*furcasque bicornis*).

another (who obviously survived the punishment): *caesum uirgis sub furca scio* (I know you were beaten with rods “under the fork” [i.e., with both arms attached to either end of the fork]).¹⁸⁹ One text describes a form of crucifixion using a *furca*. The dogs who did not warn the Romans of the Gauls’ invasion in ca 390/389 or 387/386 B.C.E. were punished:

For the same reason dogs suffer annual punishments between the temple of Iuventas [Youth] and Summanus [the god of high places], pierced alive by the shoulder on forks of elder-wood.

*eadem de causa supplicia annua canes pendunt, inter aedem Iuventatis et Summani vivi in furca sabucea armo fixi.*¹⁹⁰

In this text one cannot conclude that *furca* was the equivalent of *patibulum*, because *patibulum* is not mentioned. It is important, however, that both Servius and Plutarch use crucifixion (or suspension) language to describe the penalty meted out to the dogs.¹⁹¹ What is missing in Latin texts is any equivalent to Plautus’s, Licinus’s, the *lex Puteolana*’s, and Firmicus Maternus’s image of a slave or criminal bringing a *patibulum* to a *crux*.¹⁹² That is, no Latin author describes a *furca* being brought to a *crux*.¹⁹³ Other than the authors in the *Digest* (where it has been substituted for *crux*), no classical author describes a person suspended on a *furca*.¹⁹⁴

The *furca* was occasionally used for a form of capital punishment by flogging.¹⁹⁵ This manner of execution could be called the *supplicium more maiorum* (execution according to the custom of the ancestors). The phrase could refer to execution by the axe, however, and it may have included other forms of execution, which were related to the crime of the condemned.¹⁹⁶

¹⁸⁹ Pl. Men. 943. Cp. Cas. 389 *Vt quidem tu hodie canem et furcam feras* (... that you bear today a chain and fork), 437-8 *ego remittam ad te uirum / Cum furca in urbem tamquam carbonarium* (I will return him to the city to you bearing a *furca* like a charcoal man).

¹⁹⁰ Plin. Nat. 29.57. Cf. chapt. 1 § 3.3.

¹⁹¹ Serv. A. 8.652 (II, 293 Thilo/Hagen) *cruci suffigebantur* (attached/nailed to a cross). Cf. chapt. 1 § 3.3. Plut. De fort. Rom. 12, 325D *κῶνον μὲν ἀνεστραυρωμένος* (a crucified/suspended dog).

¹⁹² For Plautus and Licinus, cf. Non. De comp. doct. III (1.327 Lindsay = 221,13-17 Müller) quoted above in § 3.1.1. Firmicus Maternus Mathesis 6.31.58 (§ 3.1.1). For the *lex*, cf. chapt. 5 § 1.4.

¹⁹³ The exception may be Valerius Maximus’s (1.7.4) account of Titus Latinus, but even he only mentions *servum suum verberibus mulcatum sub furca ad supplicium egisset*, and it is the epitomator Iulius Paris (Epit. 1.7.4) who interprets this to mean *servum in crucem actum* – although he omits the fork. The two punishments are mentioned in closed proximity in Pl. Per. 855-6 (see chapt. 1 § 1.2).

¹⁹⁴ See chapt. 5 § 1.5.

¹⁹⁵ Cf. Suet. Nero 49.2. Cf. Cook, Roman Attitudes, 66 and index s.v. *furca*.

¹⁹⁶ Cf. Oldfather, Supplicium, 49-72. For the expression, cf. Caes. Gal. 6.44.1 (Acco, leader of the rebellion in Gaul: *more maiorum supplicium*). Cp. Gal. 8.38.5 where Caesar executes Guturvatus by scourging and then has his corpse beheaded (*verberibus exanimatum*).

Nero was threatened with such a death (the *furca*). According to Suetonius Nero was pronounced a public enemy by the Senate, and his friends urged him to commit suicide.

While he hesitated, a letter was brought to Phaon by one of his couriers. Nero snatching it from his hand read that he had been pronounced a public enemy by the senate, and that they were seeking him to punish him in the ancient fashion; and he asked what manner of punishment that was. When he learned that the criminal was stripped, fastened by the neck in a fork and then beaten to death with rods, in mortal terror he seized two daggers which he had brought with him, and then, after trying the point of each, put them up again, pleading that the fated hour had not yet come.

*Inter moras perlato a cursore Phaonti codicillos praeripuit legitque se hostem a senatu iudicatum et quaeri, ut puniatur more maiorum, interrogavitque quale id genus esset poenae; et cum comperisset nudi hominis ceruicem inseri furcae, corpus uirgis ad necem caedi, conterritus duos pugiones, quos se cum extulerat, arripuit temptataque utriusque acie rursus condidit, causatus nondum adesse fatalem horam.*¹⁹⁷

Ps. Aurelius Victor gives this version of the narrative:

When Nero learned of Galba's approach and that it had been decided by a decree of the senate that with his neck thrust into a *furca* according to ancestral custom, he might be beaten to death by rods ...

corpus securi feriretur). See the similar expressions in Tac. Ann. 2.32 (*more prisco* [a magician or astrologer]), 4.30.1 (*more maiorum* [for alleged treason]) 14.48.2 (*necandumque more maiorum* [for *maiestas*]; in this text strangulation may be the intention – cf. A. Drummond, Law Politics and Power. Sallust and the Execution of the Catilinarian Conspirators, Stuttgart 1995, 58), 16.11.3 (*more maiorum* [for alleged treason]). In Cic. Pis. 83, however, the expression refers to Piso's (who had been bribed) possible execution by axe (*securis*) of an ally of Rome. The phrase does not, consequently, always refer to scourging to death. Cf. Drummond, Law, 58 (Sal. Cat. 52.36 and 55.1-6 [strangulation]). Diodorus 19.101.3 describes the execution in Rome of Fregellani prisoners during the second Samnite war: προαγαγὼν εἰς τὴν ἀγορὰν ῥαβδίσας ἐπελέκησε κατὰ τὸ πάτριον ἔθος (leading them into the forum he scourged and beheaded them with an axe according to ancestral custom). For other possible forms of execution (such as the sack, the *culleius* [*poena parricidii more maiorum haec instituta* ...] cf. Modestinus 12 Pand. in Dig. 48.9.9.pr.). This and other forms of execution are discussed in D. Rohman, "Welche Art von Strafe ist das?" – Anmerkungen zum Supplicium "Nach Art der Vorfahren," Hist. 55 (2006) 244-6. Other literature includes T. Mommsen, Römisches Strafrecht, Graz 1955 (rep. of 1899 ed.), 918 (conflates the penalty with crucifixion), Latte, Todesstrafe, 1615 (believed it was execution by axe; the senators in Suetonius's text knew nothing of such an ancestral penalty and proposed a punishment similar to that given to those guilty of sex with Vestal Virgins [his hypothesis about the senators seems gratuitous]), Cantarella, I supplizii, 204-6 (equivalent to the *arbor infelix*). In Apul. Met. 10.11.3 the extreme penalty according to ancestral custom (*extremae poenae, quae more maiorum in eum competit*) for a slave who administered what he thought was poison to kill a young man is crucifixion (10.12 *servus vero patibulo suffigitur*).

¹⁹⁷ Suet. Nero 49.2, trans. of Suetonius, vol. 1-2, LCL, ed. and trans. J. C. Rolfe, Cambridge, MA/London 1914, 2.177-9.

*Ubi adventare Nero Galbam didicit senatusque sententia constitutum, ut more maiorum collo in furcam coniecto virgis ad necem caederetur ...*¹⁹⁸

Eutropius has a similar tradition:

By these actions he became detestable to the Roman world and was abandoned simultaneously by all; he was pronounced a public enemy by the senate. When he asked about the punishment – the penalty was such that he should be led naked through the streets and his head be inserted into a *furca* while he was being beaten to death by rods and that he then be thrown off the Rock ...

*Per haec Romano orbi execrabilis ab omnibus simul destitutus est et a senatu hostis iudicatus; cum quaereretur ad poenam, quae poena erat talis ut nudus per publicum ductus, furca capiti eius inserta, virgis usque ad mortem caederetur atque ita praecipitaretur a saxo ...*¹⁹⁹

Claudius went to Tibur to see a punishment according to the ancient fashion (*antiqui moris supplicium*), but a *carnifex* (executioner) had to be sent for from Rome, since none could be found in Tibur.²⁰⁰ Domitian easily had some people, allegedly guilty of *maiestas*, condemned to be punished according to the custom of the ancestors (*facile perfecerat ut etiam more maiorum puniendi condemnarentur*).²⁰¹ Horrified at the severity of the punishment he allowed them to choose the manner of their death.

Isidore confused the meaning of *patibulum* with *furca*.²⁰² He is writing long after crucifixion had been abolished as a form of punishment:

¹⁹⁸ Ps. Aurelius Victor Epitome de Caesaribus 5.7.

¹⁹⁹ Eutropius Breviarium 7.15.1.

²⁰⁰ Suet. Cl. 34.1. Claudius found the individuals already bound to stakes (*deligatis ad palum*). Being bound to a stake could be followed by being beaten with rods and beheading by an axe (Liv. 2.5.8, 26.13.15, 26.16.2-4, 28.29.11 [nude], V. Max. 5.8.1). In some cases only the stake and subsequent execution by the axe are mentioned (Liv. 8.7.19, Liv. Per. 26.32, Cic. Ver. 2.5.72). After the scourging the condemned were thrown on the ground and beheaded (Plutarch Publ. 6.2-3).

²⁰¹ Suet. Dom. 11.2-3.

²⁰² Cf. ThLL X/1.706.74 s.v. *patibulum*: *confunditur cum furca* (cf. Isid. Orig. 5.27.34 at ibid. X/1.706.65-67). Cp. Andreas de Sancto Vitore Expositio super heptateuchum, In Iosue 8:29, lines 145-7 (CChr.CM 53, 218 Lohr/Berndt) *Patibulum est proprie, quas nos "furcas" uocamus. In quo tormento homo suffocatur, cito moritus. In cruce uero diutius torquetur et cum lenta morte diu luctatur* (*patibulum* is properly what we call "forks." In that torment a person is suffocated, and is dead quickly. On a cross a person is tortured for a long time and struggles at length with a slow death). The same confusion appears in a Carolingian commentary on Terence (Schol. Ter. An. 619: *furcifer autem est furcarum patibulo dignus* a gallsbird then is deserving of a *patibulum* of forks). Cf. ThLL VI/1.1610.52-3 and F. Schorsch, Das *commentum Monacense* zu den Komödien des Terenz. Eine Erstedition des Kommentars zu ‚Andria‘, ‚Heautontimorumenos‘ und ‚Phormio‘, Tübingen 2011, 94. Schorsch argues that the scholiast is from the Carolingian period (ibid. 32, 41-45, 53). The Munich MS itself, Codex Latinus Monacensis 14420, dates to the turn of the tenth century (ibid., 43). *furcarum patibulo* was a mediaeval expression. Cf. Saba Malaspina Chronicon 2.6 (MGH.SS 35, 133,21 Koller/Nitschke) *furcarum patibulo suspensus interiit* (he died sus-

There are various possible means of execution; among them the cross (*crux*), or *patibulum* (i.e. forked gibbet), on which men who are hanged are tormented (*cruciare*) or suffer (*pati*), whence these take their names. The *patibulum* is commonly called the fork (*furca*), as if it were “supporting the head” (*ferre caput*), for hanging on a gibbet causes death by strangling; but the *patibulum* is a lesser punishment than the cross. The *patibulum* immediately kills those who are hanged on it, but the cross torments those nailed to it for a long time;

*Mortium uero diuersi casus, ex quibus crux uel patibulum, in quo homines adpensi cruci-antur uel patiuntur; unde et nomina habent. patibulum enim vulgo furca dicitur, quasi ferens caput. Suspensum enim et strangulatum ex eo exanimat; sed patibuli minor poena quam crucis. Nam patibulum appensos statim exanimat, crux autem subfixos diu cruciat;*²⁰³

This form of execution is clear from its illustrations in a number of Byzantine manuscripts including the sixth century Vienna Genesis (Gen 40:20-22).²⁰⁴ Origen probably used the LXX’s expression ξύλου διδύμου to describe the object in his homilies on Joshua, and Rufinus translated the expression as *ligno gemino*.²⁰⁵ Origen’s interpretation of the text, however, is that Jesus was on a double cross (*crux gemina fuit*) – one was the cross on which he was crucified in the flesh, and the other was an invisible cross on which the devil along with the principalities and powers was fixed [or nailed] (*diabolus ... affixus est cruci*).²⁰⁶ However, Jerome, using the Hebrew expression for the tree on which the king was suspended, – עץ הערף – translated with *in patibulo*. That translation was more accurate due to his knowledge of Hebrew, which Origen probably lacked for the most part. Jerome also interpreted the object to be a cross since *patibulum* and *crux* are syntactically interchangeable and thus nearly semantically equivalent in the Vulgate.²⁰⁷ In Byzantine times the *furca* became a quick form of death in which an individual’s neck was placed

pended on a forked *patibulum*). Petrus Blesensis Ep. 73 (PL 207.225B) *furcarum patibulo deputatur* (sent to a forked *patibulum*).

²⁰³ Isid. Orig. 5.27.33-4 (OCT, vol. 1. n.p. Lindsay). Trans. of S. A. Barney et al., *The Etymologies of Isidore of Seville*, Cambridge et al. 2006, 125.

²⁰⁴ See figure 16, Österreichische Nationalbibliothek, Cod. theol. gr. 31 (Vienna Genesis), 17^v (folio 34) (the baker), and Art and Holy Powers in the Early Christian House, ed. E. D. Maguire et al., Urbana/Chicago, 1989, 41, Table VII (the baker’s neck hanging in the cleft of the fork). Cf. chapt. 3 § 10.4 for further bibliography and the illustrations from the Joshua rotulus and for a wooden relief from Egypt including *furcae* that dates ca 400.

²⁰⁵ Rufinus Orig. Ios. 8.3 (GCS Origenes Werke VII, 338,4 Baehrens). Cf. G. Q. Reijnders, *The Terminology of the Holy Cross in Early Christian Literature*, GCP 2 Nijmegen 1965, 7-8.

²⁰⁶ Rufinus Orig. Ios. 8.3 (338,12-13 Baehrens). Cf. Col 2:14-15.

²⁰⁷ Josh 8:29 Vulg. On Origen and Hebrew, cf. E. Ulrich, *The Old Testament Text of Eusebius: The Heritage of Origen*, in *Eusebius, Christianity, and Judaism*, ed. H. W. Attridge and G. Hata, Detroit 1992, 543-562, here 551-558. See chapt. 5 § 1.4.2 for the semantic equivalence.

in the crux of the fork.²⁰⁸ *Furca* (fork) in the era after Constantine's abolishment of crucifixion was a punishment in which "the criminal apparently hung by the neck from a wooden fork until he was dead."²⁰⁹ I believe this is the explanation for Paulus Diaconus's gloss (i.e., it is a reference to a Byzantine punishment): *Furcilles sive furcilla, quibus homines suspendebant* (*furcilla*, on which they suspended people).²¹⁰ Paulus did occasionally add material to that of Festus.²¹¹

3.6 *Furcifer*

A scholiast commenting on the use of the word in Terence's *Lady of Andros*, gives this description:

People are called *furciferi* ["gallowsbirds"] who for a trivial offense are forced by their masters, more for the sake of shame than for punishment, to carry a fork on their neck – to which their hands have been bound – through neighborhoods and to proclaim their offense while warning others not to perform a similar misdeed.

*furciferi dicebantur, qui ob leue delictum cogebantur a dominis ignominiae magis quam supplicii causa circa uicinas furcam in collo ferre subligatis ad eam manibus et praedicare peccatum suum simulque summonere ceteros, ne quid simile admittant.*²¹²

In Plautus, it is difficult to tell whether *furcifer*, then, always implies the intention to execute an individual or not. The OLD s.v. defines it as "one punished with the 'fork', scoundrel, villain, gallows bird." In *The Braggart Warrior*, a gentleman asks a slave "*Quid nunc, furcifer?*" (what now, gallows-bird?) and the slave responds that he knows he deserves an extreme punishment (*maximum ... malum*).²¹³ In *The Comedy of Asses* a slave, Leonida, re-

²⁰⁸ Cf. the illustration of a *furca* in figure 16 and other images discussed in chapt. 3 § 10.4.

²⁰⁹ P. Garnsey, *Social Status and Legal Privilege in the Roman Empire*, Oxford 1970, 128.

²¹⁰ Paul. Fest. (Sexti Pompei Festi de verborum significatu quae supersunt cum Pauli epitome. Thewrewkianis copiis usus edidit W. M. Lindsay, BiTeu, Leipzig 1913, 79,1 = 88 Müller). *suspendebantur* (were suspended) is the reading of family β (which includes Guelferbytanus Aug. 10, 3 [X C.E.]). Dacerius conjectured *onera* before *suspendebant* (people carried burdens on the forks). The words are corrupt according to Ritschl on Pl. Ps. 631 (cf. ThLL VI/1.1611.52-54 s.v. *furcilla* [H. Rubenbauer]). Contrast another usage in Paul. Fest. (22,13-4 Lindsay = 24 Müller): *Aerumnulas Plautus refert furcillas, quibus religatas sarcinas viatores gerebant* (*aerumnulas*: Plautus refers to forks, on which travelers carried their fastened up baggage).

²¹¹ Cf. K. Neff, *De Paulo Diacono Festi epitomatore*, Diss. Inaug., Erlangen 1891, 46-53. In addition he occasionally worked from an imperfect archetype and also had an imperfect knowledge of Latin. Cf. Lindsay, *Sextus Pompeius*, xx.

²¹² Don. Ter. An. 618.2 (BiTeu Aeli Donati quod fertur commentum Terenti I, 192,5-9 Wessner). Cf. ThLL X.1.1610.84-1611.36 s.v. *furcifer* (H. Rubenbauer).

²¹³ Pl. Mil. 545, 547. The term is used ten times in Plautus.

sponds to a trader, after they have both traded predictions or insults that each deserve thrashings: *Quid, uerbero? ain tu, furcifer? † erum nosmet fugitare censes?* (What, man who deserves a flogging? Really, you gallowsbird? Do you think we're running away from our master?).²¹⁴ In this context *furcifer* probably implies flogging while attached to a *furca*. Another usage in Plautus clearly implies that punishment by the *furca* was not always fatal. In *The Casket Comedy*, a slave tells a young (freeborn) man: *Ob istuc unum uerbum dignu's, deciens qui furcam feras* (for that one word you deserve to bear the *furca* ten times).²¹⁵ The word, in a less literal meaning, could refer to someone who deserves crucifixion. A late glossary has *furcifer cruci dignus* (gallows bird, deserving the cross).²¹⁶ This is a classical usage due to the close proximity of references to individuals who are called “gallows birds” (*furciferi*) and who deserve the cross (*crux*).²¹⁷

3.7 The Arbor Infelix

The *arbor infelix* (inauspicious, unlucky or disastrous tree) was death by scourging (*after* suspension from a tree) with one's hands tied behind one's back.²¹⁸ Dominique Briquel has shown that the penalty is clearly not crucifixion.²¹⁹ Livy quotes the ancient formula (the *lex horrendi carminis*, the dread ceremonial formula of the law) in the legendary trial of Horatius for *perduellio*: *caput obnubito; infelici arbori reste suspendito; verberato vel intra pomerium vel extra pomerium* (let him [i.e., the lictor] veil his head, there will be suspension with a rope on an ill-omened tree,²²⁰ let him scourge him either within or without the pomerium).²²¹ Horatius's father asks his fellow citizens,

²¹⁴ Pl. As. 484-5. W. M. Lindsay (OCT ad. loc. [n.p.]), in his apparatus, thinks *erum* should perhaps be deleted.

²¹⁵ Pl. Cist. 248.

²¹⁶ Corpus amponiana primum s.v. *furcifer* (CGIL V, 360 Goetz) with comments on the MS (Codex Amponianus 42, probably IX C.E.) in CGIL V, xxvi-xxvii.

²¹⁷ Ter. An. 618, 21 (*furcifer, cruce*), Cic. Deiot. 26 (a rhetorical usage), Sen. Con. 7.6.4, 7.6.9, Apul. Met. 10.7.7 (*cruciaris*), 10.9.1 (*furcifer*).

²¹⁸ On the hands, cf. Tyrrell, A Legal and Historical, 91. A. Watson defends the accuracy of Livy's version of the tradition (Legal Origins and Legal Change, London 1991, 124-5) against the objections of J. Bleicken (Ursprung und Bedeutung der Provocation, ZSRG.R 76 [1959] 324-74, esp. 335) and Latte (Todesstrafe, 1614 [Livy's version assumes something like the Valerian law which limits a magistrate's authority to the area inside the *pomerium*; cf. chapt. 5 § 1.3 on that law]).

²¹⁹ D. Briquel, Sur le mode d'exécution en cas de parricide et en cas de *perduellio*, ME-FRA 92 (1980) 87-107, esp. 97-101, Oldfather, Supplicium, 49-72, Voisin, Pendus, 438-42, Hinard/Dumont, Libitina, 92-3 and Cantarella, I supplizi, 178, 186-7.

²²⁰ Oldfather, Supplicium, 53-4 interprets the phrase to mean “‘fasten to’ a tree” or “hang or fasten him with a rope on a tree.”

²²¹ Liv. 1.26.6. In 1.26.7 the lictor first is told to bind his hands (*I, lictor, colliga manus*). Cp. 1.26.11.

Quirites, eum sub furca vinctum inter verbera et cruciatus videre potestis? (Citizens, are you able to see him bound under a *furca*, subjected to scourges and tortures?).²²² He continues by mentioning the ceremonial formula.²²³ Perhaps the tree was bifurcated.²²⁴

Cicero misleadingly conflates the *arbor infelix* with crucifixion in his defense of Gaius Rabirius for high treason.²²⁵ Nonius's comment on the word *suspensum* is important in this context, however:

"Suspended means being bound high." M. Tullius in his *Against Verres*, "let him veil his head, there will be a suspension on an ill-omened tree." Vergil, book V (489): [a fluttering dove used as a target] where they aim their arrows, it is suspended from a high mast.

*Suspensum dicitur alte ligatum. M. Tullius in Verrem (Rab. perd. 13): "caput obnubito, arbori infelici suspendito." Vergilius lib. V (489): quo tendant ferrum, malo suspendit ab alto.*²²⁶

Nonius's quotation from Cicero shows how much Cicero altered the ceremonial formula.²²⁷ The dove in Vergil's image was not strangled by a noose, but simply restrained by being tied up with a rope to the mast (*volucrum trajecto in fune columbam*).²²⁸ Consequently *suspensum* means "bound to" in this text of Nonius and also in the *carmen*.²²⁹

Macrobius indicates the connection of such trees with the gods of the underworld in a reference to an author who apparently lived toward the end of the Republic and who was interested in Etruscan lore:

Tarquitius Priscus, however, in his *Portents Derived from Trees*, says (fr. 6), They call "ill-omened" the trees that are under the protection of the gods of the underworld and apotropaic powers: buckthorn, red cornel, fern, black fig, those that bear a black berry and black fruit, similarly holly, woodland, pear, butcher's-broom, briar, and the brambles with which one should order evil portents and prodigies to be burnt.

Tarquitius autem Priscus in Ostentario arborario sic ait: arbores quae inferum deorum avertentiumque in tutela sunt, eas infelices nominant: alaternum, <virgam> sanguineam, filicem, ficum atrum, quaeque bacam nigram nigrosque fructus ferunt, itemque aquifo-

²²² Liv. 1.26.10. In 2.36.1 (*sub furca caesum*), however, a slave bore a *furca* through the circus while being flogged. See § 3.5 above.

²²³ Liv. 1.26.11

²²⁴ Cantarella, I supplizii, 205.

²²⁵ Cf. chapt. 1 § 1.6 and most recently Castagnetti, *Le leges libitinariae* flegree, 103-6 on the difference between the *arbor infelix* and crucifixion. Seneca does use the expression *infelix lignum* to describe crucifixion in Ep. 101.14.

²²⁶ Non. IV (2.617,19-22 Lindsay = 386,19-21 Müller).

²²⁷ On this text, cf. A. Magdelain, *Le ius archaïque*, MEFRA 98 (1986), 265-358, esp. 272.

²²⁸ Verg. A. 5.488.

²²⁹ Oldfather, *Supplicium*, 53.

*lium, pirum silvaticum, ruscum, rubum sentesque quibus portenta prodigiaque mala comburi iubere oportet.*²³⁰

In this text such trees bear fruit. Pliny insists such trees are barren:

... but trees that never grow from seed nor bear fruit are considered to be unlucky and under a curse [lit. “condemned by religion” or “by superstition”]. Cremutius states that the tree from which Phyllis hanged herself is never green.

*infelices autem existimantur damnataeque religione, quae neque seruntur umquam neque fructum ferunt. Cremutius auctor est numquam virere arborem, ex qua Phyllis se suspenderit.*²³¹

There is an analogy between the penalty of the *arbor infelix* and the one in the Twelve Tables for an individual who harvests another’s crops.

If anyone stealthily pastures²³² on or cuts by night another’s crops obtained by cultivation the penalty in the Twelve Tables for an adult shall be capital punishment and, after having been suspended, death as a sacrifice to Ceres, a punishment more severe than in homicide.

*frugem quidem aratro quaesitam furtim noctu pavisse ac secuisse puberi XII tabulis capital erat, suspensumque Cereri necari iubebant gravius quam in homicidio convictum*²³³

Ceres is the goddess of creation and agriculture.²³⁴ The mode of death signified by *necari* is probably flagellation, although this is not certain.²³⁵ Death

²³⁰ Macr. 3.20.3, text and trans. of Macrobius, Saturnalia Books 3–5, vol. 2, LCL, ed. and trans. R. A. Kaster, Cambridge, MA 2011, 2.142–4. Cf. J. Linderski, Tarquiti Priscus, ³OCD 1475.

²³¹ Plin. Nat. 16.108, trans. of Rackham, Pliny. Natural History, 4.459. Cp. Nat. 24.68. This was also Cato’s position. Paul. Fest. (BiTeu 81.26–7 Lindsay): *Felices arbores Cato dixit, quae fructum ferunt, infelices, quae non ferunt* (Auspicious trees, Cato said, are the ones that bear fruit, inauspicious trees are those that bear none).

²³² Cantarella, I supplizii, 213 derives *pavisse* from *paveo*, which she interprets as “to frighten.” The meaning of the phrase would then be “frighten another’s crops [by magic incantations].” The Twelve Tables were concerned with harmful magic against crops (cf. VIII.8a in A. C. Johnson, P. R. Coleman-Norton, and F. C. Bourne, Ancient Roman Statutes. A Translation with Introduction, Commentary, Glossary and Index, Austin 1961, 11: “whoever enchants away crops” [Plin. N. H. 28.18 *qui fruges excantassit*]).

²³³ Plin. N. H. 18.12, trans. modified of Johnson et al., Ancient Roman Statutes, 11–12 (Lex duodecim tabularum VIII.9, VIII.24b in their enumeration).

²³⁴ Johnson et al., Ancient Roman Statutes, 16. They also note that *suspensum* can be translated “bound” with ref. to Oldfather, Supplicium, 51–4, 59–60, 69.

²³⁵ Cantarella, I supplizi, 220, Oldfather, Supplicium, 69, Hengel, Crucifixion, 39, Castagnetti, *Le leges libitinae* flegree 102 (all argue it was an execution by scourging). For other views (crucifixion and hanging), cf. Cantarella, *ibid.*, 398 n. 49. Mommsen, Römisches Strafrecht, 631–2 n. 8 and Garnsey, Social Status 128 n. 10 interpret the *lex* to mean crucifixion. Latte, Todesstrafe, 1614 (death by hanging – Latte finds a parallel between Pliny’s text and that of Livy and rejects the clear implication of the *lex horrendi carminis*: death by scourging). H. Hitzig, *Crux*, PRE IV (1901) 1728–31, esp. 1728 sees the same parallel between Livy and Pliny and thinks the execution is by hanging. He also avoids the implication of *verberato*.

by hanging is excluded, because that was not used as a penalty either in the Republic or the imperium.²³⁶

4 Executions and Imperial Murders during Gaius's Rule: A Question of Historical Methodology

The linguistic results sketched above are useful when labeling narratives as “crucifixions.” It is not at all unusual for a Greco-Roman author to be extremely brief when describing an individual’s execution or murder.²³⁷ For Caligula’s reign, as an example, authors sometimes merely affirm that a victim was executed in an unspecified manner.²³⁸ Probably most of those were by the sword. The emperor was reputed to have said, “I wish that the Roman people had one neck.”²³⁹ Occasionally people are said to have been beheaded or executed by other strokes of a sword or sharp weapon.²⁴⁰ Caligula murdered a *cultrarius* (person who used the knife when animals were sacrificed) with a mallet.²⁴¹ Some were burned alive.²⁴² Others were thrown to wild beasts.²⁴³ Individuals were executed in prison, perhaps by the garrote.²⁴⁴ Some of the victims were cast off the Tarpeian rock, and some were drowned.²⁴⁵ Gaius murdered some using poison.²⁴⁶ Suetonius mentions that occasionally victims were sawn in two, sentenced to the mines or to road

²³⁶ Cantarella, I supplizi, 185 (the imperium). Cf. § 1 above.

²³⁷ I make no attempt to include absolutely every example of a murder or execution during Caligula’s reign.

²³⁸ Sen. Ep. 4.7, Dial. 9.14.4-7 (execution by a centurion, probably by the sword), Cassius Dio 59.4.3, 6, 59.8.1-3, 59.10.7, 59.11.6, 59.22.3-7, 59.25.1, 59.25.5b-7, Suet. Cal. 23.3, 26.2, 27.4, 28, 29.2, 32.2, 35.1, Josephus A.J. 18.223, 19.3, 26, 125.

²³⁹ Suet. Cal. 30.2 (*Utinam p. R. unam cervicem haberet!*). Cp. Caligula’s same thought in Sen. Dial. 5.19.2 *optabat, ut populus Romanus unam cervicem haberet* (he used to wish that the Roman people had one neck) and Cassius Dio 59.13.6 εἴθε ἓνα ἀνθρώπων εἴχετε (if only you had one neck). Cp. the two books of Gaius’s agent Protogenes, the “dagger” and the “sword” (Cassius Dio 59.26.1) – for people he desired to execute.

²⁴⁰ Sen. Ep. 4.7 (decapitation) = Cassius Dio 59.22.6-7 (unspecified form of execution), Suet. Cal. 28 (stabbed with styluses and mangled), 29.2, 30.1 (numerous small wounds), 32.1, 32.3, 35.2, 58.2-3 (a lengthy description of Caligula’s murder), Philo Flacc. 188-9 (exile and subsequent execution by the sword of Flaccus).

²⁴¹ Suet. Cal. 32.3.

²⁴² Suet. Cal. 27.4, Acta Alex. III col. 3, 24-25 = P.Giss. Univ. 4.

²⁴³ Suet. Cal. 27.1, 27.3, 27.4, Cassius Dio 59.10.3.

²⁴⁴ Cassius Dio 59.18.3. Cp. Tac. Ann. 5.9.1-2 and 6.39.1 (Tiberius’s reign, the garrote used in prison).

²⁴⁵ Cassius Dio 59.18.3 (the rock). Suet. Cal. 27.2 (thrown from the bank), 32.1 (thrown into the sea), Cassius Dio 59.17.9-10.

²⁴⁶ Cassius Dio 59.14.5.

building – perhaps to be worked to death.²⁴⁷ Twenty-six equestrians were condemned to gladiatorial combat.²⁴⁸ Some individuals were confined in cages and perished there.²⁴⁹ It is no surprise then that Suetonius, when describing a freedman's crucifixion by Caligula, only mentions that he was “quickly taken to the cross” (*confestim in crucem acto*).²⁵⁰ Hanging is out of the question in the freedman's case, and explicit impalements are only mentioned twice in Latin literature (by Seneca), so with a high probability one may assume that this was a crucifixion. Clearly one cannot absolutely preclude the possibility of error, but crucifixion is the most reasonable interpretation of the text. Suetonius is not interested in providing later historians with enough details to ensure complete certainty about the nature of the freedman's crucifixion (e.g., pre- or post-mortem, accompanied by other penalties such as *damnatio ad bestias* [condemnation to death by wild animals], and so forth). He does, however, mention no form of execution other than crucifixion, and he does not use *stipes*, Seneca's term (*terminus technicus*) for the instrument used in impalement. In historical research one often has to settle for evidence that is less than impeccable, and since crucifixion belonged to Roman daily life authors of that period did not need to spell out the details for their audiences – details which could be taken for granted.²⁵¹ A historian could succumb to skepticism and ask, for example, if in one of the texts above that describes an individual executed by wild beasts there was some form of subsequent execution by some other means such as *crematio* (being burned alive) if the first method failed – the kind of detail one finds in some martyrologies. But that sort of extreme skepticism has little useful purpose and impedes historical research.

5 Conclusion

The descriptions of the shape of crosses in Justin, Tertullian, and Minucius Felix should not be dismissed.²⁵² Images they use, such as ships' masts, stan-

²⁴⁷ Suet. Cal. 27.3.

²⁴⁸ Cassius Dio 59.8.3 (Atanius Secundus, equestrian), 59.10.1-2 (the twenty six).

²⁴⁹ Cassius Dio 59.10.4.

²⁵⁰ Suet. Cal. 12.2 (chapt. 2 § 3.3.1). Cp. the crucifixions of Flaccus in chapt. 2 § 3.3.2.

²⁵¹ Here I thank Senior Lecturer (philosophy) Ian Morton for remarks on inductive probability and certainty (a private communication of 11 March 2014). Cf. chapt. 6 § 1 prologue.

²⁵² See § 2.1, 3.4 above and Justin, 1 Apol. 55.3-6 (110,8-111,20 Marc. [and cf. his rich apparatus of parallels]), Tert. Apol. 16,6-7, Nat. 1.12.4, Min. 29.7 (*nam et signa ipsa et cantabra et vexilla castrorum quid aliud quam inauratae cruces sunt et ornatae?*) [For what are your military ensigns and banners and standards but gilded and adorned crosses?]. The OLD defines *uexillum*, for example, as: “A military standard, consisting usu. of a piece of cloth suspended from a cross-piece at the head of a pole ...” The most natural interpretation

dards, and ensigns,²⁵³ only work because the cross had a meaningful shape in Roman culture as an instrument of execution. Obviously the exact shape probably varied. One cannot accuse the Christian apologists of “special pleading,” because they were aware that their Roman audiences (Christian or pagan) knew the shape of crosses. The survey above does not encourage the researcher to demand a fundamental revision of the lexicons.²⁵⁴ There are no texts that describe explicit impalements (i.e., with details or additional semantic clues) or hangings (by a noose) of living bodies using σταυρός (*stauros*) and the associated verbs. Consequently, “to crucify” is still the preferred translation of the verbs when a text describes person being executed, and “cross” or “pole” is the preferred translation of the noun. This may be contrasted with the two usages of *stipes* discussed above that are explicit impalements (§ 3.4). For texts describing Roman executions (and executions mentioned by authors during the Roman era), the Greek and Latin words for crucifixion are clear enough in sense and describe a procedure that must have been repeated thousands of times with variations.²⁵⁵ The work done by the ThLL and others on *patibulum*, however, has not yet been adopted in the corresponding entry in the OLD, so that is a revision that will be necessary in the future.

of Pl. Mos. 359-360: *ego dabo ei talentum, primus qui in crucem excurrerit; / sed ea lege, ut offigantur bis pedes, bis brachia* is that the hands are to be stretched out horizontally to be nailed twice. The feet are also to be nailed twice.

²⁵³ For illustrations of the *signa*/ensigns (a cross shaped device that held various medallions) and *uexilla* (standards), cf. A.-J. Reinach, *Signa militaria*, DAGR IV, 1307-1325, esp. 1313, figures 6415, 6419 (both of ensigns = *signa*), 1314 figures 6420-6424 (all of standards = *uexilla*)

²⁵⁴ Here I must disagree with the main conclusions of Samuelsson’s monograph (Crucifixion), which I nevertheless value highly.

²⁵⁵ This topic will be developed throughout the monograph.

Chapter One

Crucifixion in Latin Texts

Crucifixion begins to appear in Latin texts during the period of the second Punic war (218-201 B.C.E.).¹ Plautus in particular indicates that the punishment was used on slaves, although there are no actual crucifixions in his comedies. Curses that use the image of crucifixion and Plautus's numerous usages of the word *crux* probably demonstrate the prevalence of crucifixion in daily life. Although long explicit descriptions of crucifixion are lacking in Latin texts, enough data can be gathered from the accounts that a relatively clear picture of the procedure emerges. Certainly the procedure varied in individual details.²

1 Republic (Late Sixth Century until Caesar)

1.1 Quintus Ennius (239-169)

A fragment of Ennius's *Annales*, perhaps from Cato's speech against the abrogation of the *lex Oppia* of 215,³ includes one of the oldest references to crucifixion in Latin literature: "*malo cruce,*" *fatur*, "*uti des, Iuppiter*" (he said, Jupiter, may you punish him with a terrible cross). Nonius, who transmits this text, affirms that this is an example of *crux* in masculine gender, although he notes it is usually feminine.⁴ It is perhaps a curse against the individual who wishes to abrogate the law. Otto Skutsch, however, makes the point that the context is obscure and that *fatur* cannot "be part of the speech, but must intro-

¹ Cf. chapt. 2 § 2.1.

² Cf. chapt. 6 § 1.2.

³ This was one of the *leges sumptuariae*, and it restricted women with regard to clothing, the possession of gold, and use of horse-drawn vehicles. Cf. J. Briscoe, *Oppius* (1), Gaius, ³OCD, 1069. and Titinio e Atta, *Fabulata togata. I frammenti*, ed. T. Guardì, Milan 1984, 104. Liv. 34.1-8 attributes a speech to Cato against the abrogation. Cf. Liv. 34.1.3 in particular for the details of the law. The tribunes M. Fundanius and L. Valerius sought the abrogation of the law. Guardì (ibid., 104) sees another reference to the law in Pl. *Aul.* 475-536.

⁴ Enn. Ann. XI 359 (360) fr. vii (The Annals of Q. Ennius, Edited with Introduction and Commentary by O. Skutsch, Oxford 1985, 101) = Non. De compendiosa doctrina III (195 Müller, *BiTeu* I, 287, 10-13 Lindsay). Lindsay reads *crucei*.

duce it.” Cato would not have begun his speech with a curse.⁵ It is unclear to me why *fatur* must introduce the beginning of a speech, however, and cannot simply be Ennius’s device for referring to an element within the speech.⁶

1.2 Plautus (wrote ca 205-184)

Plautus is apparently one of the earliest Roman authors to mention crucifixion. He makes frequent use of *crux* in curses. Ergasilus, a parasite, has this to say one day about his own profession: “Straightway to an extreme evil cross with the parasitic art” (*Ilicet parasiticae arti maxumam malam crucem*).⁷ An old man in the *Casina* tells another to take his wife over to his own house: “Take her, and go to the devil [to an evil cross], and with your own, and with that girl of yours, too!” (*Ducas easque in maxumam malam crucem / Cum hác, cum istac, cumque amica etiam tua*).⁸ Another expression, *mala crux*, also appears often. W. Thomas MacCary and Malcom M. Willcock point out that since “*crux* was the ultimate punishment for slaves, in (*malam*) *crucem* ire became slang for ‘to go to hell’.”⁹ A young gentleman threatens a pimp

⁵ Skutsch, Ennius, 525.

⁶ On the use of *fatur* as a narrative word within speeches, cf. G. Highet, *Speech and Narrative in the Aeneid*, in: *The Classical Papers of Gilbert Highet*, ed. R. J. Ball, New York 1983, 125-62, esp. 146-7 (with specific reference to Ennius).

⁷ Capt. 469.

⁸ Cas. 611-2. Trans. of Plautus, vol. 1-5, LCL, ed. and trans. P. Nixon, Cambridge, MA/London 1916-38, 2.67. Below use will also be made of Plautus, vol. 1-5, LCL, ed. and trans. W. de Melo, Cambridge, MA 2011-3. Cp. Men. 66, the narrator’s description of the fate of the abductor of a boy: *Abstraxitque hominem in maximam malam crucem* (And he dragged a man to an extreme evil cross), 328 a young gentleman curses a cook: *Vt eas maxumam malam crucem* (May you go to an extreme evil cross), 849 a youth curses his twin brother’s wife: *Nei a meis oculis abscedat in malam magnam crucem* (unless she gets out of my sight and – goes to a large evil cross [i.e., gets the hell out!], de Melo 2.451), Poen. 347 a young man curses his slave: *I di recte in maxumam malam crucem* (go straight to hell [extreme evil cross]), Per. 352 a parasite curses: *Ferant eantque maxumam malam crucem* (let them carry it [a piece of gossip] and go to hell [extreme evil cross]), Trin. 598 a slave curses his master: *Ibit istac aliquo in maxumam malam crucem* (He’ll go off somewhere to an extreme evil cross), Rud. 518 a pimp to his friend: *Quin tu hinc eis a me in maxumam malam crucem?* (Why do you not go away from me here and go to hell? [extreme evil cross]).

⁹ Plautus, *Casina*, ed. W. T. MacCary and M. M. Willcock, Cambridge 1976, 111, commenting on Cas. 93-4, in which one slave says to another: *Quin edepol etiam, si in crucem uis pergere, / Sequi decretumst* (Why, by Pollux, even if you want to go on to the cross, I’ve decided to follow you). In Cas. 977 the gentleman whose slave has just impersonated Casina (and who physically attacked the gentleman and another slave in his feminine disguise) angrily tells the slave Chalinus *I in malam crucem* (go to hell/the cross). In As. 940, an Athenian gentleman tells a young prostitute *i in crucem* (go to hell/a cross). Bac. 902 a slave to a soldier: *Vel Hercle in malam crucem* (Or by Hercules, go to hell/a cross). Cur. 611 an officer to a parasite who has wronged him in dice: *Quin tu is in malam crucem / Cum boleis, cum bulbis?* (go to hell with your casts [of dice] and onions), Men. 915 a young gentleman to a

in *Curculio* (the crucifixion does not actually take place): *Collum obstringe, abduce istum in malam crucem* (bind his neck, and lead him off to the evil cross).¹⁰ This is a reference to crucifixion and not penal hanging, since prisoners were occasionally led roped or chained together.¹¹ Hanging was not a penalty in the Republic or the imperium.¹² The formula also appears in a text which gives a picture of the flogging before crucifixion. Pseudolus, a slave, speaks to a gentleman, Calidorus (who wants him to fetch lambs for a sacrifice to Jupiter), and then directs his words to a pimp, Ballio:

Pseudolus: I'll be back soon. But first I need to run outside the Gate [the Esquiline].

Calidorus: Why there?

Pseudolus: I'll bring two butchers with bells from there and at the same time I'll get two flocks of elm rods from there, so that there will be a sufficient supply to obtain a favorable omen from this Jupiter today.

Ballio responds with what must have been a common curse:

Go to an evil cross.

Pseudolus: That's the place where the whore keeping Jupiter will go.

PS. *Iam hic ero; uerum extra portam mi etiam currendum est prius.*

doctor (possibly a slave himself): *Quin tu is in malam crucem?* (you go to hell/the evil cross!), Men. 1017 a slave to other slaves who had apparently attacked his master *Agite abite: fugite hinc in malam crucem* (come on, get out, run [to an evil cross] the hell out of here), Poen. 271 a male slave to a girl who had been kidnapped, enslaved, and sold to a pimp: *i in malam crucem* (go the hell), Poen. 495 a soldier who threatens to beat a pimp unless he listens to his tall tales: *Nisi aut auscultas aut ... is in malam crucem* (unless either you listen – or go and be crucified [to an evil cross]), 496 the pimp in turn prefers (*Malam crucem ibo potius*) to go and be crucified, Poen. 511 a young man reflected while waiting on slow friends to catch up with him: *Quin si ituri hodie estis, ite, aut ite hinc in malam crucem* (if you're coming today, come, or get the hell out of here [go to an evil cross]), Poen. 789-90 the pimp says of himself: *Sed quid ego dubito fugere hinc in malam crucem / Prius quam hinc optorto collo ad praetorem trahor?* (Why am I hesitating to get the hell out of here [go to an evil cross] rather than with my neck restrained with a noose to be dragged to the praetor [judge]), Poen. 799 the young man says of the pimp: *Vtinam hinc ab<i>erit malam crucem* (I hope he has gotten the hell out of here [gone to an evil cross]), Poen. 1309 a soldier to a gentleman *Ligula, i in malam crucem* (*Ligula* [some kind of abusive word], go to hell), Ps. 839 a pimp to a cook: *Loquere atque i in malam crucem* (talk on and go to hell), Ps. 846 the pimp repeats the phrase (*i in malam crucem*) to his cook, Ps. 1182 a soldier's slave uses the same phrase to the pimp who answers (1183) that the slave will suffer likewise "today" (*ir' licebit tamen tibi hodie temperi*), Ps. 1294 one slave to another: *i in malam crucem* (get the hell out), Rud. 176 a male slave watching a shipwrecked slave shows pity: *Sed dextrouorsum auorsa it in malam crucem* (turned to the right she's going to an evil cross), Rud. 1162 a fisherman (who was a slave himself) to a slave: *placide, aut ite in malam crucem* (calmly, or go to hell), Mos. 850 a slave to an old freeborn man: *abin hinc in malam crucem?* (will you go to hell?!).

¹⁰ Pl. Cur. 693.

¹¹ Cf. chapt. 3 § 3.1, chapt. 5 § 1.4.2, and Cook, *Envisioning Crucifixion*, 268.

¹² Cf. intro. § 1.

CA. *Quid eo? PS. Lanios inde accersam duo cum tintinnabulis:*

Eadem duo greges uirgarum inde ulmearum adegero,

Ut hodie ad litationem huic suppetat satias Ioui.

BA. *I in malam crucem.*

PS.

*Istuc ibit Iuppiter lenonius.*¹³

Another variation of the curse occurs in an Athenian gentleman's remark to his slave: *ego ferare faxo, ut meruisti, in crucem* (I will have you led, as you merited, to the cross).¹⁴ The OLD (s.v. *crux* § 3) defines it as "anything which causes grief or annoyance, a plague, torment, etc." An old Athenian gentleman uses the phrase to describe tradesmen:

"All paid off now, anyway," you may be thinking, when in march the fellows who do the saffron dyeing—some damned pest [evil cross] or other, anyhow, eternally after something.

*... iam [hosce] absolutos censeas, / cum incedunt infectores corcotarii, / aut aliqua mala crux semper est, quae aliquid petat.*¹⁵

In *The Braggart Warrior* a soldier kidnaps a courtesan from Athens. The woman's lover has a slave who sets off in search of the master. The slave too is kidnapped by the soldier. The lover and the soldier end up living side by side with a secret passageway between the homes. The slave begs the lover (his former master) to send the woman back to the soldier's house

... unless she wants us, who are slaves, to be given as bedfellows to crosses because of her love affair.

*qui servi sumus / propter amorem suum omnes crucibus contubernales dari.*¹⁶

A slave in the soldier's house, once he knows the woman has been visiting her young lover next door, reflects:

¹³ Pl. Ps. 331-6. Trans. of de Melo, 4.279-81. The last two lines are my own trans. On the executioners' bells cf. the use of bells in the *lex Puteolana* (Cook, *Envisioning Crucifixion*, 265, 281).

¹⁴ Mos. 1133.

¹⁵ Pl. Aul. 520-2, trans. of Nixon, 1.289. Cp. Aul. 631 a slave speaking to an old Athenian gentleman *Quae te mala crux agitat?* (which evil cross is disturbing you?), Bac. 584 a youth to a parasite: *Qui <d est? quae> te mala crux agitat* (what is it, what evil cross disturbs you?), Per. 795 a pimp to a slave: *Quid ais, crux, stimulorum tritor?* (what are you saying, you cross, goad-rubber?). In Cas. 416 two slaves comment on the lots just drawn for the slave girl, Casina, whom they both want to marry. de Melo in his Loeb ed. (Cas. 416 Olympio *Ostende. mea haec est. Chalinus Mala crux ést quidem* [Ol. Show me. It's mine. Ch. Then it's evil torture. de Melo 2.56]) adopts the conjectural emendation of Camerarius (*crux*) that may be incorrect. MacCary and Willcock, Plautus, 63, 148 follow the MSS: Ol. *ostende. mea est*. Ch. † *mala crucias* † *quidem* (you, evil [lot], are torturing me indeed). They note the phrase *mala crux* is "rhythmically awkward" and still requires the emendation *mea <haec> est* for "proper scansion." Cas. 641, a master to his female slave: *I in malam a me crucem* (get the hell away from me or "go away from me to an evil cross").

¹⁶ Pl. Mil. 184, trans. of de Melo, 3.161.

If the soldier should find this out, by heaven [by Hercules], I do believe he'd set up this whole establishment including your truly, on a cross!

... *hocine si miles sciat,*
*credo Hercle has sustollat aedis totas atque hunc in crucem.*¹⁷

In the same play, a slave affirms that:

I know the cross is my future tomb. There is where my ancestors are buried, my father, grandfathers, great-grandfathers, great-great-grandfathers.

scio crucem futuram mihi sepulcrum;
*ibi mei maiores sunt siti, pater, auos, proauos, abauos.*¹⁸

In this text, fictional of course, there is an indication that burial was denied to some crucified individuals in Roman society.¹⁹ In Plautus's *Amphitruo*, a master says to a slave (who is really Mercury): "I will sacrifice you by cross and torture, whipping post" (*At ego te*²⁰ *cruce et cruciatu mactabo, mas-tigia*).²¹ An old miser in the *Pot of Gold* beats his slave, an old woman, and threatens her:

... if you look around – until I command you to – I will immediately, by Hercules, give you as a pupil to the cross.

... *si respexeris, donicum ego te iussero*
*continuo Hercle ego te dedam discipulam cruci.*²²

The cross is used in the banter of two slaves in *The Persian* where a slave named Sagaristio threatens another slave, Paegnium,

Sagaristio... if once I catch you today and don't plant [nail] you in the ground with these fists.

Paegnium. "You plant me? It's you that'll be planted [nailed] by others before long, on a cross.

Sag. nisi te hodie, si prehendero, defigam in terram colaphis.
*Paegn. Tun me defigas? te cruci ipsum adfigent propediem alii.*²³

Nails are probably associated with the cross in this text. At the end of the text, the pimp, Dordalus, submits to his destiny after Sagaristio tells him they have punished him enough.

Dordalus. I admit it, I'm giving you my hands.

Toxilus. And you'll do so later under the fork.

Sagaristio. [to the pimp] Go in ... for crucifixion.

¹⁷ Pl. Mil. 309-10, trans. of Nixon, 3.153-5.

¹⁸ Pl. Mil. 372-3 (OCT II, Lindsay).

¹⁹ Cook, Crucifixion and Burial, 206-9.

²⁰ Pylades conjectures *te* (you) here for the *certo* (without a doubt) of the MSS.

²¹ Pl. Am. (after 1034), frag. 1 = (CUFr I, 67 Ernout/de Melo 1.118) = Non. De compendiosa doctrina IV (342 Müller, BiTeu II, 540,8-9 Lindsay).

²² Pl. Aul. 58-9.

²³ Pl. Per. 294-5, trans. of Nixon, 3.457.

*Dor. fateor, manus uobis do.
Tox. Et post dabis sub furcis.
Sag. Abi intro in crucem.*²⁴

A fisherman, a slave, who has found a trunk full of toys belonging to his master's shipwrecked daughter, argues over ownership of the trunk with the slave of a pimp who had himself enslaved the daughter:

If I didn't catch it, there's no reason why you shouldn't hand me over to the cross; if I caught it in the sea with my net, how is it yours rather than mine?

*Ni istum cepi, nulla causa est quin me condones cruci;
si in mari reti prehendi, qui tuom potiust quam meum?*²⁵

In the *Haunted House*, the slave Tranio says that,

I'll give a talent to the first man to run to the cross – but on these terms: that his feet and arms are double-nailed. When this is done, let him demand cash paid on the spot.

*Ego dabo ei talentum primus qui in crucem excucurrerit;
sed ea lege, ut offigantur bis pedes, bis brachia.
Ubi id erit factum, a me argentum petito praesentarium.*²⁶

The slave probably envisions a cross with a *patibulum* here.²⁷ Nails and crosses belong together in Plautus's concept of crucifixion, which he clearly does not understand to be impalement. Two slaves congratulate themselves in the same play:

Let us have praises and great thanks for faithlessness, as deserved, since by our impostures, plots, and cunning, trusting in our shoulder-blades, confident in the power of elm rods, [lacuna] Us against goads, hot metal plates, and crosses and foot-shackles and thongs[?], chains, cells, neck-frames, ankle-fetters, collars, and violent painters [= floggers] – well familiar with our backs!

*Perfidiae laudes gratiasque habemus merito magnas,
Quom nostris sycophantiis dolis astutiisque,
Scapularum confidentia, uirtute fulmorum*²⁸ *freti*
[lacuna]
*Qui aduersum stimulos lamminas crucesque compedesque
Neruos catenas carceres numellas pedicas boias
Inductoresque acerrumos gnarosque nostri tergi*²⁹

The slave Chrysalus, in *The Two Bacchises*, fears this consequence of his deceitful actions:

²⁴ Pl. Per. 855-6, trans. of de Melo, 3.557 who notes that Dordalus makes a “submissive gesture” expressing his willingness “to be tied up.”

²⁵ Plautus, Rud. 1070.

²⁶ Pl. Mos. 359-61.

²⁷ Cf. intro. § 3.1.1 for Plautus's association of *patibula* and *cruces*.

²⁸ Nonius has *ulnorum* (forearms) here. MS P has *ulmorum* (elm rods).

²⁹ Pl. As. 545-51.

I think, by Hercules, that when he [the master] returns he will change my name and will make it at once “Cross jumper [Crucisalus]” instead of “Chrysalus” [gold dancer].

*Credo Hercle adueniens nomen mutabit mihi
Facietque extemplo Crucisalum me ex Chrysalo.*³⁰

Presumably dancing or struggling on a cross was fatal.³¹ In the *Stichus*, produced at Rome in 200, a young Athenian, Epignomus, describes the nature of a parasite named Gelasimus:

Epignomus. Immortal gods! This one by Pollux could be led to a highest cross for a dinner or a lunch.

Gelasimus. That’s my natural temperament: I fight much easier with anything else than hunger.

*EP. Di immortales, hicquidem pol summam in crucem
Cena aut prandio perduci potest.*

GE. Ita ingenium meumst:

*Quicumuis depugno multo facilius quam cum fame.*³²

Melissa Barden Dowling argues that Plautus’s comedies are “written for the general population” and “the general norms of Roman life are clearly discernible.” She summarizes the situation:

In the *Miles Gloriosus*, the immediacy and reality of Roman punishment are conveyed by the many crucifixion jokes told by slaves. The fear of being put to death for disobedience is perhaps an exaggeration, though there were no laws in this period to punish an owner for destroying his slave. Torture and execution were common for slaves committing serious offenses, such as plotting against a master’s life, setting fires in the city, or stealing an object of significant value.³³

Jean-Christian Dumont has pointed out, however, that in Plautus’s comedies (which include over eighty slaves) in only one case does a master actually send his slave to death, and the length of the excruciating penalty (chained in the quarries) finally brings about the slave’s deliverance.³⁴ The evidence of the *lex Puteolana* (chapt. 5 § 1.4) shows, on the other hand, that slaves did suffer crucifixion when their masters so desired.

³⁰ Pl. Bac. 361-2.

³¹ R. M. Kerr, *Latino-Punic Epigraphy. A Descriptive Study of the Inscriptions*, FAT 2.42, Tübingen 2010, 106 translates the expression as “cross-struggler.” The OLD s.v. derives it from *crux* and *salio* (“to jump, leap”). de Melo, Plautus, 1.403, consequently translates *Crucisalus* as “cross-jumper”, but expresses the pun as “turn me from Chrysalus into Cross-salus.”

³² Pl. St. 625-6.

³³ M. B. Dowling, *Clemency and Cruelty in the Roman World*, Ann Arbor 2006, 12.

³⁴ J.-C. Dumont, *Le mort de l’esclave*, in: *Le mort les morts et l’au-delà*, Actes du colloque de Caen 20-22 novembre 1985, ed. F. Hinard, Caen 1987, 167-186, esp. 177. J.-C. Dumont, *Servus. Rome et l’esclavage sous la république*, CEFR 103, Rome 1987, 126-129 (a master’s legal rights), 326-329, Cook, *Envisioning Crucifixion*, 275-8. See Pl. Capt. 731, 997 (the slave’s virtues). Tyndarus (the slave) is actually Hegio’s son.

1.3 Publius Terentius Afer (active in the 160s)

Terence wrote his *fabulae palliatae* during the 160s.³⁵ The *Andria*, produced in 166 B.C.E. contains an exchange in which the slave Davus had convinced his master Pamphilus to agree to a marriage with a woman whom the master did not love – in hopes that a solution could be found. When no solution appears imminent, Pamphilus asks his slave what he deserves. The slave Davus answers “the cross” (*PA. Quid meritu’s? DA. Crucem.*).³⁶ The *Phormio* was produced in 161 at the *ludi Romani*. Geta, a slave, has been involved in the marriage of his master’s son (Antiphon) and does not want to take any more risks for Antiphon’s cousin Phaedria:

Obviously, by Heracles, you persuade beautifully; will you get out of here? Do I not triumph because I have met nothing evil from your marriage without your ordering me, in a bad circumstance already, to seek the cross for his sake?

*Sane Hercle pulchre suades: etiam tu hinc abis?
Non triumpho, ex nuptiis tuis si nil nanciscor mali
ni etiamnunc me hui(us) causa quaerere in malo
iubeas crucem?* ³⁷

The play also contains the curse so frequent in Plautus. Phormio, the parasite, tells Geta *I in malam crucem* (go to hell).³⁸ Aelius Donatus (IV C.E.) describes this as an adverbial use.³⁹

In the *Eunuch*, also produced in 161, a freeborn youth presents himself as a eunuch because a woman he loves is there. He tells his brother’s slave who complains that it is wickedness:

³⁵ P. G. M. Brown, Terence (Publius Terentius Afer), ³OCD, 1483-4. These are comedies based on Greek New Comedy.

³⁶ Ter. An. 621. Several lines earlier (An. 618) Pamphilus says to Davus: *oh, tibi ego ut credam, furcifer?* (oh, why should I trust you, gallowsbird?). Eugraphius’s comment is: *FVRCIFER in seruos istud saepe conuicium dicitur, quod, cum addicuntur poenae, furcam ex materia qualibet factam ligatam collo sustinent* (Fork-bearer [gallowsbird] is often used as a term of abuse for those slaves, because, when they are sentenced to punishment, they bear a fork made from any kind of material bound to their neck). Cf. Eugraphius ad Ter. An. 618 (BiTeu III/1 55,13-5 Wessner). Eugraphius then refers to Cic. Deot. 26 (cf. § 1.6 below).

³⁷ Ter. Ph. 543-4. Donatus comments: *in malo aliud malum* (another evil [for one] in a bad circumstance). Cf. Donatus ad Ter. Ph. 368 (BiTeu II, 462,12-3 Wessner)

³⁸ Ter. Ph. 368.

³⁹ Donatus ad Ter. Ph. 368 (BiTeu II, 443,20-3 Wessner): *IN MALAM CRUCEM aduerbially, ut* (Andr. 71) *“huc uiciniae.”* (to an evil cross: adverbial, as in “here near [us]”). With regard to a comment by Geta to Phaedria that lists the punishments slaves suffer, a scholium attributed to Donatus notes, *MOLENDVM VSQVE IN PISTRINO facete enumerat seruis uniuersa supplicia suae condicionis excepta cruce et furca, quarum poenam uerbis extenuare non potuit* (Grinding in the mill: the slave cleverly enumerates all the punishments of his condition with the exception of the cross and fork, punishments which he could not extenuate by words). Cf. Don. ad Ter. Ph. 249.1 (I, 412,16-8 Wessner).

Wickedness? What, for me to be taken to a house of courtesans, where there are those crosses who scorn us and our youth and torture us in every way and so pay them back and deceive them as they deceive us?

*An id flagitiumst, si in domum meretriciam
deducar et illis crucibus, quae nos nostramque adulescentiam
habent despiciatam et quae nos semper omnibus cruciant modis
nunc referam gratiam atque eas itidem fallam, ut ab illis fallimur?*⁴⁰

Here the “crosses” refer to the women in the house of courtesans.

1.4 Marcus Terentius Varro (116-27 B.C.E.)

Varro, one of Rome’s greatest scholars, denounced crucifixion and also *damnatio ad bestias* in a text from one of his Menippean satires (AMMON METPEIS περί φιλαργυρίας You measure sand; concerning greed)].⁴¹

Certainly, we are barbarians, because we nail innocent people to the cross/fork; but you are not barbarians, because you throw the guilty to wild animals.

*nos barbari quod innocentes in gabalum suffigimus homines; uos non barbari quod noxios obicitis*⁴² *bestiis?*⁴³

⁴⁰ Ter. Eu. 382-5. Trans. of Terence, vol. 1, LCL, ed. and trans. J. Sargeant, Cambridge, MA/London 1912, 273.

⁴¹ On the condemnation of this form of spectacle (*ad bestias*), cf. G. Thome, *Vorstellungen vom Bösen in der lateinischen Literatur. Begriffe, Motive, Gestalten*, Stuttgart 1993, 348. I take the title from Varron, *Satires Ménippées*, vol. 1, CEFR 9, ed. and trans. J.-P. Cèbe, Rome 1972, 96 (cf. the MS confusion in the app. crit.). Another solution has been ἄλλ’ οὐ μένει [or μενεῖ] σε (but death does not wait for you? but money will not wait for you?). Cèbe objects to the latter conjectures because the proverb is otherwise unknown in classical literature, whereas many equivalents may be found for “you measure sand” (ibid., 96-9 with references to texts such as Homer Il. 9.385 and Hor. Carm. 1.28.1).

⁴² *obicitis bestiis* a conjectural emendation of Bücheler for the *obuestis* of the MSS. *absoluitis* (you pardon) is a cj. of Bentinus.

⁴³ Var. Men. fr. 24 (96 Cèbe = BiTeu, 5 Astbury) = Non. De comp. doct. II (117 Müller, BiTeu I, 168, 12-3 Lindsay). See Hengel (Crucifixion, 36) who refers also to *gabalus* used as a taunt in SHA Opellius Macrinus 11.6 (Iulius Capitolinus) in which Macrinus mocks a poet who mocked him. It had been translated from Greek to Latin: *si talem Graium tetulissent fata poetam, / qualis Latinus gabalus iste fuit / nil populus nosset* (Had the fates taken the Greek poet away, who was just as bad as this Latin gallows-bird [*cruce dignus*, deserving the cross], the people would have known nothing (cp. the paraphrase in D. den Hengst, *Die Poesie in der Historia Augusta. Bemerkungen zur Opiliusvita*, in: *Emperors and Historiography. Collected Essays on the Literature of the Roman Empire*, Mn.S 319, ed. D. W. Burgersdijk et al., Leiden 2010, 130-39, esp. 132). That text was included in H. Meyer’s edition of epigrams (Anthologia veterum latinorum epigrammatum et poematum, Leipzig 1832, 801.2 [p. 250]). Cp. the fragment “*Elio nam gabalus*,” a reference to Eliogabalus, in *Fragmenta poetarum latinorum* 93 (BiTeu, 455 Blänsdorf) = Pompeius Commentum artis Donati (BiTeu Grammatici Latini V, 309 Keil) and the comments of R. P. H. Green, Marius Maximus and Ausonius’ Caesaris, CIQ 31 (1981) 226-36, esp. 234. ThLL VI.2.105.24-36 esp. 105.29-31,

Nonius begins the excerpt with this comment: *GABALVM crucem dici veteres volunt* (*Gabalus*: The ancients intended “cross” to be signified [by the word]).⁴⁴ Jean-Pierre Cèbe also translates the word as “cross” (*croix*) in his edition of the fragment.⁴⁵ Manu Leumann, in the *ThLL*, defines the word to mean *patibulum* or *crux*.⁴⁶ The word is problematic. Alfred Ernout and Antoine Meillet in their etymological dictionary argue that it is a synonym of *furca* (“gibet, potence” gibbet, gallows) due to its Celtic origin.⁴⁷ The evidence from Nonius should be preferred despite the etymological material. Nonius was aware of classical usage (despite the fact that the word was “vulgar” in the sense that the common people probably used it). There are only

s.v. *gabalus* (M. Leumann) comments on SHA Severus Alexander (Aelius Lampridius) 1.1 *consobrinus ipsius Gabali* (Severus is the cousin of Gabalus himself) with this remark, *artificiose etiam ex nomine Heliogabali efficitur, fort. notione 'homo cruce dignus'*” (it is artificially constructed from the name of Heliogabalus, perhaps using the notion of a “person deserving the cross”).

⁴⁴ Non. De comp. doct. II (117 Müller, BiTeu I, 168,10 Lindsay). The Glossae Iuvenalianae (CGIL V, 654,10 Goetz) also has: *Gabulum id est crux*. The entry in C. Lewis and C. Short, *A Latin Dictionary*, Oxford 1879, s.v. defines it as “a kind of gallows” (syn.: *furca*, *patibulum*, *crux*).

⁴⁵ Cèbe, Varron, *Satires*, 96, 110 (*gabalus* is a synonym of *patibulum* and *crux* in his view). This corresponds with Nonius and the glossaria to be discussed below. Cf. Serbat, *Les dérivés nominaux*, 87 who mentions the glosses *crux* and *patibulum*, which he argues are the sense of the text in Varro. *Glossaria latina iussu academiae britannicae edita*. IV Placidus, Festus, ed. J. W. Pirie and W. Lindsay, Paris 1930, 219 in their note on the Gloss. Philoxeni (*Gabalum*: βᾱδανος [*Gabalum*: torture] = CGIL II, 32,8 Goetz [who edits it as *gabulum* but notes a marginal correction to *gabalum* in cod. Paris. lat. 7652]) quote the Gloss. Corpus [see below] (= Abolita?): *Gabulum: patibulum* and Nonius’s comment. They also write, “*Gabalum*. βαδ.] i.e. *patibulum Graece prave redditum?*” [i.e. *patibulum* erroneously rendered from Greek?].

⁴⁶ *ThLL* VI.2.105.26, s.v. *gabalus*.

⁴⁷ A. Ernout and A. Meillet, *Dictionnaire étymologique de la langue latine. Histoire des mots*, Paris ⁴1959, rev. 1985, 265 s.v. *gabalus* (a word that was popular [a *sermo plebeius*] in Varro’s time). Irish “*gabul*, gall. *gavl*, bret. *gavl* ‘Gabel’.” J. Grzega, *Romania Gallica Cisalpina*, *Etymologisch-geolinguistische Studien zu den oberitalienisch-rätoromanischen Keltizismen*, ZRP.B 311, Tübingen 2001, 171 translates the word as “Gabel; Galgen” (fork, gibbet). I suspect that this is working from much later texts backward using languages such as Irish to try and hypothesize the meaning of the Latin word in Varro. It results in more confusion than clarity. For example, a mediaeval tract (MS H. 2. 13 Trinity College) line 135 has “*haec furca. gabal*” (W. Stokes, *Irish Glosses. A Mediaeval Tract on Latin Declension with Examples Explained in Irish*, Dublin 1860, 7). Cp. Althelmus *De laude Virg.* 29 v. 1638 (MGH.AA 15, 421 Ehwald) *Quando crucis gabulum, sacro corpore scandit* (when he went up on the *gabulum* of the cross with his holy body). An eighth century glossary has “*gabulum patibulum*” (An Eighth-Century Latin-Anglo-Saxon Glossary. Preserved in the Library of Corpus Christi College, Cambridge [Ms. N^o. 144], ed. J. H. Hessels, Cambridge 1890, p. 59, G9 [s.v. *gabulum*] = The Corpus Glossary, ed. W. Lindsay, Cambridge 1921, 83). The same gloss is found in *Glossarium Ampl. Primum* (MS from IX C.E.) s.v. *gabulum* (CGIL V, 362 Goetz). The *Excerpta ex glossis Aynardi* has *Gabulum est patibulum* (GGIL V, 620 Goetz).

four instances in Latin literature I am aware of in which *gabalus* appears as an instrument of punishment.⁴⁸ Consequently, the evidence is too slender for firm conclusions. It is important that the glosses from antiquity (Nonius [Severan era] and the Corpus Glossary [VIII C.E.]) interpret the word to mean respectively *crux* or *patibulum* and not *furca*. Both were based on much older sources.⁴⁹ In addition, the punishment is not the later Byzantine penalty in which an individual's neck was placed in the fork.⁵⁰ *Suffigimus* (we fasten or we nail) implies that the individual is to be nailed or otherwise attached to the *gabalus* and not impaled.

Cèbe believes that the fragment is ironic. A "barbarian" from a community in Asia or Carthage where crucifixion is practiced responds ironically to a Roman who is denigrating the foreigner's country by pretending to take seriously the Roman's condemnation and to believe it himself. The Romans convince themselves that they only punish the guilty (with a peculiarly brutal form of death) whereas the barbarians to the contrary punish the innocent.⁵¹ The satire may have been written before 74 B.C.E.⁵²

Augustine transmits a text that possibly goes back to Varro:

To say 'pleasure' is gentle on the ears, but to say 'cross' is harsh ... The harshness of the latter word matches the pain brought on by the cross.

*lene est auribus cum dicimus 'voluptas' asperum cum dicimus 'crux'... ipsius verbi asperitas cum doloris quem crux efficit asperitate concordet.*⁵³

Because of Varro's comment about crucifixion in the satire, it is quite possible that he commented on the pain induced by crucifixion in one of his grammatical texts.

⁴⁸ Nonius, Varro, the SHA, and perhaps the text of Pompeius mentioned above. Serv. A. 7.180 (II/1 180,5 Thilo/Hagen) has *Gabalus etiam, Romanus imperator, Solem se dici voluit: nam Heliogabalus dictus est* (Gabalus, the Roman emperor, wanted to be called the "sun," therefore he was called "Heliogabalus").

⁴⁹ For Nonius, cf. *De compendiosa doctrina* (BiTeu I, xv-xviii Lindsay). Lindsay calls him a compiler more than an author. He used classical sources only. On the sources of the Corpus Glossary, cf. Lindsay, *The Corpus Glossary*, v-vi.

⁵⁰ Intro. § 3.5 and chapt. 3 § 10.4.

⁵¹ Cèbe, Varron, *Satires*, 109.

⁵² Cèbe, Varron, *Satires*, 102.

⁵³ Var. *Reliquorum de grammatica librorum fragmenta* (BiTeu 239,5-6.13-4 Goetz/Schoell) = Aug. *De dialectica* 6, p. 10 (Crecelius [95,7-8.13-4 Jackson/Pinborg]) = Varro, frag. 265 (BiTeu, *Grammaticae romanae fragmenta* 1.282,141-2.149-51 Funaioli). In L. 9.31.44 Varro comments on the similarity between the sound of the last letter of *crux* and *Phryx*.

1.5 Gaius Sempronius Gracchus (tribune in 123 and 122)

C. Sempronius Gracchus, in a speech against Popillius Laenas,⁵⁴ whom he had sent into exile in 123, argued against his recall. Festus includes the excerpt from the oration in this discussion:

“Terrible cross,” in the masculine gender, when Gracchus said it in the later oration against P. Popillius⁵⁵ ... Again it is the same when he says in his oration against Popillius and the women: “He was worthy of that established exemplary punishment who perished by a terrible cross.”

*“Malo cruce,” masculino genere cum dixit Gracchus in oratione, quae est in P. Popillium, posteriore; ... Item cum idem in Pompilium et matronas ait: “Eo exemplo instituto dignus fuit, qui malo cruce periret” ...*⁵⁶

Clearly “terrible cross” is used as a metaphor for the torment of exile.⁵⁷ Gordon Kelly notes that Popillius was recalled from exile and that “Gracchus’s criticism no doubt reflected the novelty of female involvement in such state matters, since women were normally barred from political life.”⁵⁸

1.6 Marcus Tullius Cicero (106-43)

The great orator and statesman makes a number of references to crucifixion, including one of the few “nominal” Roman crucifixions (that of Gavius of Consa) that have survived in the tradition.⁵⁹

Gaius Verres, who was tried for extortion before the appropriate court (*quaestio de repetundis*) in 70 by Cicero, left for voluntary exile before the trial was over and later died in 43 during the proscriptions of Mark Antony.⁶⁰ Before the nine days of the first stage of the prosecution were over Verres had left.⁶¹ Cicero often mentions his cruelty while propraetor of Sicily (73-71

⁵⁴ E. Badian, Popillius Laenas, Publius, ³OCD, 1221.

⁵⁵ H. Malcovati edits this fragment as part of Gracchus’s oration *De Popillio Laenate circum conciliabula* (Concerning Popillius Laenas when he [Gracchus] went to the assemblies) (Oratorum romanorum fragmenta. Liberae rei publicae, vol. I, Milan et al. ⁴1976, 185.36).

⁵⁶ The fragment is printed as C. Sempronius Gracchus, In Po[m]pil[i]um et matronas fr. 38 (Oratorum romanorum fragmenta, 185.38 Malcovati). For the entire fragment, see Fest. (BiTeu 136,12-19 Lindsay).

⁵⁷ P. Kelly, *A History of Exile the Roman Republic*, Cambridge 2006, 73 translates so: “He who died in torment was worthy of that established example.”

⁵⁸ Kelly, *History of Exile*, 73.

⁵⁹ Cf. chapt. 2 § 2.10.2

⁶⁰ Plin. N.H. 34.6 (supposedly because he would not surrender his Corinthian bronzes). According to Lact. Inst. 2.4.37 Verres heard of Cicero’s own death before he himself was killed. Asinius Pollio describes his brave death in Sen. Suas. 6.24.

⁶¹ Cic. Ver. 2.1.156, Ps. Asconius Ver. 1, Argumentum (205 Stangl): *Qua arte* [Cicero’s skill in dividing the speech for the prosecution up into units with separate witnesses] *ita est fatigatus Hortensius, ut nihil, contra quod diceret, inveniret, ipse enim Verres, desperato patrocínio, sua sponte discederet in exsilium* (Hortensius, because of this skillful practice, be-

B.C.E.) in the undelivered part of his oration against Verres. Cicero clearly believes that crucifixion is an appropriate punishment for rebellious slaves (during the third servile war).⁶² Although no reports had reached Rome, Cicero did believe such uprisings had taken place in Sicily.⁶³ The slaves were bound to a stake (*ad palum alligati*), presumably for the flogging preceding crucifixion and then released (*soluti sunt*) and given back to their master, Leonidas of Triocala.⁶⁴ Cicero argues:

You found that those slaves meant to get hold of weapons and carry out an armed rising in Sicily, and pronounced them guilty in accordance with the verdict of your court, and then, when they were already delivered over, in the manner prescribed by tradition, to suffer execution, did you dare to save them, to pluck them from the very jaws of death – intending no doubt that the cross you set up for the slaves who had been convicted should be kept for Roman citizens who had not?

*tu quos servos arma capere et bellum facere in Sicilia voluisse cognoras, et de consilii sententia iudicaras, hos ad supplicium iam more maiorum traditos ex media morte eripere ac liberare ausus es, ut, quam damnatis crucem servis fixeras, hanc indemnatis videlicet civibus Romanis reserves?*⁶⁵

He does not question the necessity of crucifying slaves who intended to foment a revolt. Verres had condemned the slaves to the following:

The lash, the fire, and that final state in the punishment of the guilty [condemned] and the intimidation of the rest, the torments of crucifixion [or torments and crucifixion].

*verbera atque ignes et illa extrema ad supplicium damnatorum, metum ceterorum, cruciatus et crux.*⁶⁶

This text indicates that fire was occasionally an element in the tortures that preceded crucifixion.⁶⁷ Verres accused a Roman citizen named Publius Gavius of spying: “Then Verres said that he had ascertained that he [Gavius] had been sent to Sicily by the leaders of the fugitive slaves for the purpose of spying” (*Tum iste, se comperisse eum speculandi causa in Siciliam a ducibus*

came so exhausted in this way, because he could find nothing to respond against which he was to speak, so that Verres, having given up his own defense, voluntarily fled in exile). Cp. Ver. 2.3.205, 2.5.44.

⁶² Cp. his account of L. Domitius Ahenobarbus’s crucifixion of a shepherd for killing a wild board with a spear (Ver. 2.5.7, chapt. 2 § 2.4).

⁶³ Cic. Ver. 2.5.9.

⁶⁴ Cic. Ver. 2.5.11. R.C.G. Levens, *Cicero: The Fifth Verrine Oration*. Edited with Introduction, Notes, and Vocabulary, Bristol 1980, 74 interprets *ad palum alligantur* as “‘bound to the stake’ for flogging, as a preliminary to crucifixion.” Cp. Zestermann, *Die Kreuzigung*, 370 who argues that *palus* and *crux* cannot be identified (cf. the use of *crux*, a different word in 2.5.12, an object to which the slaves had not been bound).

⁶⁵ Cic. Ver. 2.5.12. Trans. of Cicero, *The Verrine Orations*, Vol. 1-2, LCL, ed. and trans. L. H. G. Greenwood, Cambridge, MA/London 1928-1935, 2.481.

⁶⁶ Cic. Ver. 2.5.14, trans. of Greenwood, *Cicero*, 2.483-5.

⁶⁷ Cp. the *lex Puteolana* (chapt. 5 § 1.4.4).

fugitivorum esse missum).⁶⁸ Cicero had called witnesses who saw Gavius openly proclaim his citizenship:

For until now the witnesses I have called have been chosen not from among those who were to state that they knew Gavius personally, but from those who were to state that they saw him when he was being dragged off to be crucified in spite of his proclaiming himself a Roman citizen. This is exactly what you, Verres, say, this is what you admit, that he kept proclaiming himself a Roman citizen, that this mention of his citizenship had not even so much effect upon you as to produce a little hesitation, or to delay, even for a little, the infliction of that cruel and disgusting penalty.

*adhuc enim testes ex eo genere a me sunt dati, non qui novisse Gavius, se vidisse dicerent, cum is, qui se civem Romanum esse clamaret, in crucem ageretur. hoc tu Verres idem dicis, hoc tu confiteris, illum clamitasse se civem esse Romanum; apud te nomen civitatis ne tantum quidem valuisse ut dubitationem aliquam [crucis], ut crudelissimi taeter-rimique supplicii aliquam parvam moram saltem posset adferre.*⁶⁹

Roman citizenship and crucifixion are incompatible in Cicero's eyes, although he does not claim that there was a specific law against it. It is more likely that such a practice went against ancestral usage (*mos maiorum*).⁷⁰ Gavius suffered in Messana:

There in the open market-place of Messana a Roman citizen, gentlemen, was beaten with rods; and all the while, amid the crack of the falling blows, no groan was heard from the unhappy man, no words came from his lips in his agony except "I am a Roman citizen." By thus proclaiming his citizenship he had been hoping to avert all those blows and shield his body from torture; yet not only did he fail to secure escape from those cruel rods, but when he persisted in his entreaties and his appeals to his citizen rights, a cross was made ready – yes, a cross, for that hapless and broken sufferer, who had never seen such an accursed thing till then.

*Caedebatur virgis in medio foro Messanae civis Romanus, iudices, cum interea nullus gemitus, nulla vox alia illius miseri inter dolorem crepitumque plagarum audiebatur nisi haec: "civis Romanus sum." hac se commemoratione civitatis omnia verbera depulsurum cruciatumque a corpore deiecturum arbitrabatur. is non modo hoc non perfecit ut virgarum vim deprecaretur, sed cum imploraret saepius usurparetque nomen civitatis, crux, crux inquam, infelici et aerumnoso qui numquam istam pestem viderat comparabatur.*⁷¹

⁶⁸ Cic. Ver. 2.5.161. Cicero (2.5.164) tells Verres: *producam etiam Consanos municipales illius ac necessarios, qui te nunc sero doceant, iudices non sero, illum P. Gavius quem tu in crucem egisti, civem Romanum et municipem Consanum, non speculatorem fugitivorum fuisse* (I will also put forward fellow-townsmen and intimate friends of his from Consa, who will show you and your judges, too late for you but not for them, that the Publius Gavius whom you crucified was a Roman citizen and a burgess of Consa, and not a spy from the ranks of the fugitives, Greenwood, Cicero, 2.649).

⁶⁹ Cic. Ver. 2.5.165, trans. of Greenwood, Cicero, 2.651.

⁷⁰ For this question cf. chapt. 5 § 1.3.

⁷¹ Cic. Ver. 2.5.162, trans. of Greenwood, Cicero, 2.645-7. Cp. 2.5.170 *facinus est uincire ciuem Romanum, scelus uerberare, prope parricidium necare: quid dicam in crucem tollere?* (To bind a Roman citizen is a crime, to flog him is an abomination, to slay him is

It is possible that in the first century B.C.E., the *lex Porcia* was understood to be an absolute prohibition on flogging Roman citizens. It also probably included the right of appeal against a magistrate's decision.⁷² Cicero is willing to concede that if Gavius could not prove his citizenship then he could have been justly crucified. In one text he asks Verres if he himself would not want the claim of Roman citizenship to help him if he were being taken off to execution in remote Persia or India:

... what, then, of this man whom you were hurrying off to execution [crucifixion]? whoever he was, he was unknown to you and he declared himself a Roman citizen: could not that statement, that claim of citizenship, secure from you on your judgement-seat if not remission yet at least postponement of the sentence of death?

... *ille quisquis erat quem tu in crucem rapiebas, qui tibi esset ignotus, cum civem se Romanum esse diceret, apud te praetorem si non effugium, ne moram quidem mortis mentione atque usurpatione civitatis assequi potuit?*⁷³

Cicero admits that Verres could have justifiably crucified Gavius if he could not prove his citizenship, in the case that Lucius Raecius, Gavius's witness, could not identify him:

Should he identify the man, you would no doubt lessen the extreme severity of the sentence: should he fail to do so, then you would be free to set up this precedent, if you chose, that a man who was not known to yourself, and could not produce some person of substance to vouch for him, might be put to death on the cross, even if he were a Roman citizen.

*cognosceret hominem, aliquid de summo supplicio remitteres; si ignoraret, tum si ita tibi videretur, hoc iuris in omnes constitueres, ut qui neque tibi notus esset neque cognitorem locupletem daret, quamvis civis Romanus esset, in crucem tolleretur.*⁷⁴

This text indicates that crucifixion was too severe for citizens in the practice of Roman jurisprudence, in Cicero's view. He gives a vivid portrayal of the tortures Gavius underwent:

Does freedom, that precious thing, mean nothing? nor the proud privileges of a citizen of Rome? nor the law of Porcius, the laws of Sempronius? nor the tribunes' power, whose loss our people felt so deeply till now at last it has been restored to them? Have all these things come in the end to mean so little that in a Roman province, in a town whose people have special privileges, a Roman citizen could be found and flogged [beaten with rods] in

almost an act of murder [parricide]: to crucify him is – what?, Greenwood, Cicero, 2.655-7), quoted by Quint. Inst. 8.4.4-5 (as an example of rhetorical augmentation [*incrementum*]). Ver. 2.1.13 *Credet his equitibus Romanis populus Romanus qui ad vos ante producti testes ipsi inspectantibus ab isto civem Romanum, qui cognitores homines honestos daret, sublatum esse in crucem dixerunt* (The Roman people will believe those Roman knights who, called to give evidence before you, affirmed that a Roman citizen, though he produced respectable men as his guarantors, was crucified before their own eyes, Greenwood, Cicero, 1.135).

⁷² Cf. chapt. 5 § 1.3.

⁷³ Cic. Ver. 2.5.166, trans. of Greenwood, Cicero, 2.651-3.

⁷⁴ Cic. Ver. 2.5.168, trans. of Greenwood, Cicero, 2.653-5.

the market-place by a man who owed his rods and axes to the favour of the Roman people? When the fire and hot metal plates and the like were brought to torture him, even if his agonized entreaties, his pitiful cries could not stay your hand, was your soul untouched even by the tears and the loud groans of the Roman citizens who then stood by? You dared to crucify any living man who claimed to be a Roman citizen?

*O nomen dulce libertatis! o ius eximium nostrae civitatis! o lex Porcia legesque Semproniae! o graviter desiderata et aliquando reddita plebi Romanae tribunicia potestas! hucine tandem haec omnia reciderunt, ut civis Romanus in provincia populi Romani, in oppido foederatorum, ab eo qui beneficio populi Romani fascis et securis haberet deligatus in foro virgis caederetur? Quid? cum ignes ardentisque laminae ceterique cruciatus admovebantur, si te illius acerba imploratio et vox miserabilis non inhihebat, ne civium quidem Romnorum qui tum aderant fletu et gemitu maximo commovebare? In crucem tu agere ausus es quemquam qui se civem Romanum esse diceret?*⁷⁵

The mention of the tribune implies the right, under the *lex Porcia* and the *lex Sempronia de capite civis*, to appeal a magistrate's decision (and the scourging itself too).⁷⁶ Neither law explicitly forbade the crucifixion of Roman citizens (at least according to the surviving evidence). He addresses the citizens of Messina with regard to Gavius's cross:

Why have you not first pulled up the cross, still dripping with a Roman citizen's blood, the cross planted beside your town and harbour—pulled it up, flung it into the depths of the sea and purified all the place where it was—before you approached Rome and the Roman people here assembled. ... Is it you whose town has been chosen to display, to all who approach it from Italy, the cross of a Roman citizen before they can discern any of Rome's friends?

*nec prius illam crucem, quae etiam nunc civis Romani sanguine redundat, quae fixa est ad portum urbemque vestram, revellistis neque in profundum abiecastis locumque illum omnem expiastis, quam Romam atque in horum conventum adiretis? ... Vestrane urbs electa est ad quam cum adirent ex Italia <cives> crucem civis Romani prius quam quemquam amicum populi Romani viderent?*⁷⁷

The blood is probably from the flogging Gavius experienced. Verres charges fees for the burial of the executed.⁷⁸ He became the enemy of "common liberty" (*communi libertatis*) according to Cicero:

What else was the meaning of your order to the Messanians, who had followed their regular custom by setting up the cross on the Pompeian Road behind the town, to set it up on

⁷⁵ Cic. Ver. 2.5.163, trans. of Greenwood, Cicero, 2.647. Cp. 2.4.24 [after Gavius has been dragged off in chains to prison] *hinc illa crux in quam iste civem Romanum multis inspectantibus sustulit, quam non ausus est usquam defigere nisi apud eos quibuscum omnia scelera sua ac latrocinia communicavit* (and hence the cross to which, before the eyes of a great crowd, he elevated a Roman citizen – the cross he dared not plant in any soil but that of the accomplices in all his robberies and crimes [trans. of Greenwood, Cicero, 2.309]).

⁷⁶ Cf. chapt. 5 § 1.3 for the *lex Porcia* and the *lex Sempronia de capite civis* (which guaranteed that a capital trial had to have the sanction of popular vote).

⁷⁷ Cic. Ver. 2.4.26 (trans. of Greenwood, Cicero, 2.311).

⁷⁸ Cic Ver. 2.1.7, 2.5.134, cf. Cook, Crucifixion and Burial, 210-1.

the part of the town that looks over the Straits? and why did you add words that you cannot possibly deny having used, words that you said openly in the hearing of all – that you purposely chose this spot to give this man, since he claimed to be a Roman citizen, a view of Italy and a prospect of his home country as he hung on his cross? This is the only cross, gentlemen [judges], ever set up in this spot in all Messana's history; and you now see why. This place with its view of Italy was deliberately picked out by Verres, that his victim, as he died in pain and agony, might feel how yonder narrow channel marked the frontier between the land of slavery and the land of freedom, and that Italy might see her son, as he hung there, suffer the worse extreme of the tortures inflicted upon slaves.

*quid enim attinuit, cum Mamertini more atque instituto suo crucem fixissent post urbem in via Pompeia, te iubere in ea parte figere quae ad fretum spectaret, et hoc addere quod negare nullo modo potes, quod omnibus audientibus dixisti palam, te idcirco illum locum deligere, ut ille quoniam se civem Romanum esse diceret, ex cruce Italiam cernere ac domum suam prospicere posset? Itaque illa crux sola iudices, post conditam Messanam illo in loco fixa est. Italiae conspectus ad eam rem ab isto delectus est, ut ille in dolore cruciatuque moriens perangusto fretu divisa servitutis ac libertatis iura cognosceret, Italia autem alumnum suum servitutis extremo summoque supplicio adfixum videret.*⁷⁹

Cicero again emphasizes crucifixion as a death appropriate to slaves. He also implies that Gavius's view of Italy augmented the agony of the crucifixion he experienced. Although the passage does not say how long he was on the cross, it does indicate that the death was slow. Cicero's concept of crucifixion includes prolonged suffering and not the immediate death impalement would have caused. Verres had attacked Roman liberty:

It was not Gavius, not one obscure man, whom you nailed upon [lit., compelled to go to] that cross of agony: it was the universal principle that Romans are free men.—Nay, do but mark the villain's shamelessness! One can imagine how it vexed him to be unable to set up that cross to crucify us Roman citizens in our Forum, in our place of public assembly and public speech: for he picked out the corner of his province that should be most like Rome in its populousness, and nearest to Rome in its position; he would have this memorial of his abandoned wickedness stand in sight of Italy, at the entrance-gate of Sicily, in a place where all who came or went that way by sea must pass close by it.

*non tu hoc loco Gavius, non unum hominem nescioquem [civem Romanum], sed communem libertatis et civitatis causam in illum cruciatum et crucem egisti. Iam vero videte hominis audaciam! nonne eum graviter tulisse arbitramini quod illam civibus Romanis crucem non posset in foro, non in comitio, non in rostris defigere? quod enim his locis in provincia sua celebritate simillimum, regione proximum potuit elegit. monumentum sceleris audaciaeque suae voluit esse in conspectu Italiae, vestibulo Siciliae, praetervectione omnium qui ultro citroque navigarent.*⁸⁰

Freedom and citizenship (*status libertatis*, *status civitatis*) determine one's liability to crucifixion, according to Cicero. Messana's coastal location on the straits between Sicily and Italy provided Verres with an excellent place to set

⁷⁹ Cic. Ver. 2.5.169, trans. of Greenwood, Cicero, 2.655.

⁸⁰ Cic. Ver. 2.5.170, trans. of Greenwood, Cicero, 2.657.

up Gavius's cross so that it would be seen by the maximum number of passers by.⁸¹ Cicero describes Verres' attitude toward Roman citizens:

Why, he hated them and persecuted them beyond all other men. I say nothing of the chains and prisons, of the floggings, of the executions [axes]; I pass over the crucifixion whereby he sought to express to the Roman citizens his clemency and goodwill toward them

*At nullis inimicior aut infestior fuit. Mitto vincla, mitto carcerem, mitto verbera, mitto securis, crucem denique illam praetermitto quam iste civibus Romanis testem humanitatis in eos ac benivolentiae suae voluit esse.*⁸²

In the case of Gavius, crucifixion was a barbarous act according to the orator. Verres apparently crucified Roman citizens besides Gavius:

He is being swept into madness by those executions of Roman citizens, whom he either beheaded, or imprisoned til they died, or, while they appealed in vain for their rights as free men and Romans, crucified.

*Agunt eum praecipitem poenae civium Romanorum, quos partim securi percussit, partim in vinculis necavit, partim implorantis iura libertatis et civitatis in crucem sustulit.*⁸³

⁸¹ The Messanian coast was about five kilometers from Italy.

⁸² Cic. Ver. 2.3.59, trans. of Greenwood, Cicero, 2.69. This reference is to Gavius's execution (cf. C. Rothe, *Humanitas, Fides und Verwandtes in der römischen Sozialpolitik*, Berlin 1978, 33). Quintilian also mentions it (Inst. 6.1.54).

⁸³ Cicero, Ver. 2.1.7. Trans. of Greenwood, Cicero, 1.127. Cp. 2.1.9 *homines innocentis necarit, cum civis Romanos morte, cruciatu, cruce adfecerit* (he has ... butchered a multitude of innocent persons, slain and tortured and crucified citizens of Rome) (trans. Greenwood, Cicero, 1.131). 2.3.6 *qui civium Romanorum iura ac libertatem sanctam apud omnis haberi velit, is non tibi plus etiam quam inimicus esse debeat, cum tua verbera, cum securis, cum cruces ad civium Romanorum supplicia fixas recordetur?* (Shall one who would have the rights and liberties of Roman citizens held sacred everywhere not inevitably be your enemy, and more than your enemy, when he remembers how you dealt with Roman citizens, scourging them, beheading them, setting up crosses to crucify them? trans. Greenwood, Cicero, 2.9). Another possible reference is Ver. 1.13 where Cicero writes that Verres tortured and executed citizens in the servile manner (*cives Romani servilem in modum cruciati et necati* [cp. the similar phrase in 2.5.73]). On his crucifixions of Roman citizens (and this text), cf. L. R. Taylor, *Party Politics in the Age of Caesar*, Berkeley et al. 1949, 111. G. G. Fagan, *The Lure of the Arena. Social Psychology and the Crowd at the Roman Games*, Cambridge/New York 2011, 29 also believes Verres crucified citizens (not just Gavius). A more metaphorical use is in 2.3.70, describing farmers who fled their land in terror of Verres' tax policies: *multas enim cruces propositas effugere cupiebant* (they wanted to escape the torments [crosses] appointed for them). The context (confiscation of land, extreme taxation, etc.) makes the metaphor clear. A similar metaphor is in 2.3.112 *Iugera professi sunt aratores omnes imperio atque instituto tuo: non opinor quemquam minus esse professum quam quantum arasset, cum tot cruces, tot supplicia, tot ex cohorte recuperatores proponerentur* Well, all the farmers made returns of their acreage under crop, in obedience to your orders and regulations: and it was not likely that any of them returned it as less than it was, with the prospect, if he did, of all those tortures [crosses] and punishments, and trials by the members of your staff (trans. Greenwood, Cicero, 2.133).

The text may be rhetorical exaggeration of the only crucifixion Cicero knew of, that of Gavius of Consa, but if so Cicero made the most of it. In Cicero's eyes Verres is the one Roman citizen deserving crucifixion (*timere non debeo ne non unus iste civis Romanus illa cruce dignus, ceteri omnes simili periculo indignissimi iudicentur*).⁸⁴

Cicero defended Gaius Rabirius in 63 B.C.E., apparently on the charge of *perduellio* (treason): *Pro C. Rabirio perduellionis reo ad Quirites oratio* (*Oration to the Citizens for Gaius Rabirius Charged with Treason*).⁸⁵ The entire incident was probably due to the instigation of Julius Caesar who wished to limit the power of the senate.⁸⁶ Rabirius was accused of the murder of the tribune of the plebs, L. Appuleius Saturninus in 100 (but not tried for over 35 years). The prosecutor was T. Labienus whose uncle had been killed with Saturninus. The question whether the trial in Cicero's oration was for *perduellio* or for a monetary fine affects the question whether the trial was before the *comitia centuriata* of Roman citizens, both patricians and plebeians (the "Assembly of the Centuries" a case of *perduellio*), or the plebs (the *comitia tributa*, the pecuniary case). Jules van Ooteghem has argued convincingly that the trial was before the *comitia centuriata*, particularly since the praetor of the city, Metellus Celer, stopped the trial by lowering the flag from the Janiculum (a custom that marked the end of the Assembly).⁸⁷

⁸⁴ Cicero, Ver. 2.5.171 ... I may rest assured that Verres will be pronounced the one Roman citizen for whom that cross would be a fitting punishment, and no others deserving, even in the smallest degree, of being treated thus, trans. of Greenwood, Cicero, 2.657. On the construction (*non timere ... ne non*), cp. Ver. 2.4.82 *non vereor ... ne ... non* and A. A. Draeger, *Historische Syntax der lateinischen Sprache*, vol. 2, Leipzig ²1881, 298.

⁸⁵ Some have argued that *perduellionis reo* was a later addition to a trial actually over a monetary fine (a "pecuniary" case). Cf. Kuhn, *Kreuzesstrafe*, 765 and W. B. Tyrrell, *A Legal and Historical Commentary to Cicero's Oratio pro C. Rabirio Perduellionis Reo*, Amsterdam 1978, 54. Tyrrell (*ibid.*, 7, 76-7) also notes that it is not clear if there were one or two trials and if so in what order they took place and what the punishment envisioned in the two was (cp. Kuhn, *Kreuzesstrafe*, 761). M. C. Alexander (*Trial in the Late Roman Republic, 149 BC to 50 BC*, *Phoenix Supp.* 26, Toronto 1990, 110) believes that there were two trials in 63: the first for *perduellio* (prosecuted by C. Iulius Caesar and L. Iulius Caesar) in which Rabirius was convicted, but in which the trial was stopped by appeal; the second also in 63 was before the *comitia tributa*. Alexander's solution bears similarities to that of E. G. Hardy, *Some Notable Judicia Populi on Capital Charges*, *JRS* 3 (1913) 25-59, esp. 49-51 (although Hardy believes Labienus was able to turn a pecuniary charge into one for *perduellio*) and *idem*, *Political and Legal Aspects of the Trial of Rabirius*, *JP* 34 (1918) 12-39.

⁸⁶ Cf. Cassius Dio 37.26-8.

⁸⁷ Cf. J. van Ooteghem, *Pour une lecture candide du Pro C. Rabirio*, *Et Cl* 32 (1964) 234-46, esp. 243-4: Cicero thanks them for his consulship (Rab. 2, these elections were not a function of the *comitia tributa*) and mentions the *comitia* in Rab. 11. Cp. Kuhn, *Kreuzesstrafe*, 765. See the account in Cassius Dio 37.26-8.

Rabirius was threatened with the *arbor infelix*, which was not crucifixion.⁸⁸ Apparently Labienus had given up his intention of inflicting the *arbor infelix* on Rabirius and did not propose it as the penalty of the trial Cicero describes.⁸⁹ It is consequently necessary to interpret the references to crucifixion in the oration as an integral part of Cicero's rhetoric and probably not a penalty that was in play. Cicero, as consul (63 B.C.E.), claimed to have abolished the cross from the Campus Martius.

Now as for your constant allegation that I have abolished the procedure for High Treason, that is a charge against me, not against Rabirius. Nay, gentlemen, would that it were I who was either the first or the only man to have abolished it from out country! I would that, though Labienus makes it a charge against me, I might appropriate it as evidence of my glory. For what is so greatly to be desired that I should prefer it to the claim of having in my consulship abolished the executioner from the Forum, the cross from the Campus? But that glory, gentlemen, belongs in the first place to our forefathers who, when they drove out the kings, retained among a free people no trace of their cruel ways; and in the second place to many brave men who intended that your liberty should not be made offensive by savage punishments but safeguarded only by mild laws.

⁸⁸ Cic. Rab. Perd. 13 (*I, LICTOR, CONLIGA MANUS ... CAPUT OBNUBITO, ARBORI INFELICI SUSPENDITO* [go lictor, bind his hands ... there shall be covering of the head, there shall be hanging on a barren tree [trans. of Tyrrell, *A Legal and Historical Commentary*, 92-3]). Briquel, *Sur le mode d'exécution*, 97-101 (the nature of the mode of execution), 98 n.47 (*crux* in Rab. Perd. 11 does not imply death by crucifixion in the context, but death by flogging [in other words, Cicero misleadingly uses *crux* as a substitute for the ancient *arbor infelix*]). The *arbor infelix* is death by scourging (*after* suspension from a tree). Cf. Liv. 1.26.6 (*caput obnubito; infelici arbori reste suspendito; verberato vel intra pomerium vel extra pomerium*), 7 and 11). It is more accurate to assert that in Cicero's misleading depiction of the *arbor infelix*, Labienus intended to have Rabirius crucified. W. A. Oldfather, *Livy* i, 26 and the *Supplicio de More Maiorum*, *TAPA* 39 (1908) 49-72, esp. 65 points out that Cicero in a "misleading and doubtless intentional omission" leaves *reste* (by rope) out of the formula and then makes vague references to crucifixion (Rab. Perd. 10, 11, 16) and Tarquin (13) – falsely implying that the ancient formula (*carmen*) is crucifixion. He also leaves out the clause beginning with *verberato*. It is possible that the penalty of the *arbor infelix* had changed by Cicero's time (cf. Tyrrell, *Legal and Historical Commentary*, 93 on the nature of the penalty; he, *ibid.*, 80, thinks scourging is the current meaning: "the *crux*, substituted for the *arbor infelix* of the formula, was intended for scourging, which the audience surely knew ... Nevertheless Cicero, hoping to confuse the unwary and those not present at the earlier *contiones*, implies crucifixion"; and Kuhn, *Kreuzesstrafe*, 686, 763). Briquel's position is probably incorrect insofar as *crux* is not Labienus's word (for which see Rab. Perd. 13) for the intended punishment but Cicero's substitution. For Livy's formula, cf. intro. § 3.7.

⁸⁹ Cic. Rab. Perd. 10, 17 (*quam ob rem fateor atque etiam, Labiene, profiteor et prae me fero te ex illa crudeli, importuna, non tribunicia actione sed regia meo consilio, virtute, auctoritate esse depulsum* [So, then, I admit, nay, Labienus, I avow and I boast, that it is by my counsel, my determination, my influence that you have been forced to abandon a procedure which is cruel, savage, and more suited to a tyrant than a tribune, trans. of Cicero, vol. 9, LCL, ed. and trans. H. G. Hodge, Cambridge, MA/London 1927, 469]) and cp. 13 (the procedure had long since been abandoned) and Kuhn, *Kreuzesstrafe*, 762.

*nam de perduellionis iudicio, quod a me sublatum esse criminari soles, meum crimen est, non Rabiri. quod utinam, Quirites, ego id aut primus aut solus ex hac re publica sustulissem, ut hoc, quod ille crimen esse vult, proprium testimonium meae laudis esset! quid enim optari potest quod ego mallem, quam me in consulatu meo carnificem de foro, crucem de campo sustulisse? sed ista laus primum est maiorum nostrorum, Quirites, qui expulsis regibus nullum in libero populo vestigium crudelitatis regiae retinuerunt, deinde multorum civium fortium, qui vestram libertatem non acerbitate suppliciorum infestam, sed lenitate legum munitam esse voverunt.*⁹⁰

In the context of the oration Cicero clearly means crucifixion with his use of *crux*,⁹¹ although the tribune Labienus had originally wanted to execute Rabirius by the ancient penalty of the *arbor infelix*, which was probably death by scourging. Cicero accuses Labienus:

Which, then, of us two, Labienus, is the people's friend? You, who think it right to threaten Roman citizens even in the midst of their assembly with the executioner and with bonds; who, on the Campus Martius, at the Assembly of the Centuries, in that holy place, gave orders for the construction and erection of a cross for the punishment of citizens; or I, who refuse to allow the assembly to be defiled by contact with the executioner; who assert that the Forum of the Roman people must be purified from those traces of hideous crime, who urge against you the need to keep the assembly undefiled, the Campus holy, the person of every Roman citizen inviolable, the rights of a free people unimpaired

*Quam ob rem uter nostrum tandem, Labiene, popularis est? tu ne qui civibus Romanis in contione ipsa carnificem, qui vincla adhiberi putas oportere, qui in campo Martio comitiis centuriatis auspicato in loco crucem ad civium supplicium defigi et constitui iubes, an ego, qui funestari contionem contagione carnificis veto, qui expiandum forum populi Romani ab illis nefarii sceleris vestigiis esse dico, qui castam contionem, sanctum campum, inviolatum corpus omnium civium Romanorum, integrum ius libertatis defendo servari oportere?*⁹²

The Campus Martius apparently often served as a place for crucifixion – but not for citizens.⁹³ At no point in this passage does Cicero deny that crucifixion was inappropriate for slaves. Citizens should not be subjected to the penalty, and certainly the *comitia centuriata* (Assembly of the Centuries), patricians and plebeians, should not have to observe such executions. Cicero, in a well-known text, expresses the view of an outraged Roman citizen concerning the crucifixion of a citizen:

⁹⁰ Cic. Rab. Perd. 10, trans of Hodge, Cicero, 461.

⁹¹ This is also true of all usages of *crux* known to me that describe Roman executions, although the expression of Sextus Propertius (*arboreasque cruces*) refers to a different form of death ascribed to a legendary Greek figure. Cf. § 1.11 below. Seneca does classify the *stipes* used in impalement as a form of *crux*, however, in one text (Dial. 6.20.3), but in another explicitly distinguishes the *crux* from the *stipes* of impalement (Ep. 14.5). Cf. intro. § 1, 3.4.

⁹² Cic. Rab. Perd. 11, trans of Hodge, Cicero, 463. Cp. the similar text in ch. 28 (*crucem T. Labienus in campo Martio defigendam putavit*).

⁹³ Cp. the crucifixions on the Campus in Liv. 22.33.1-2. Cf. chapt. 2 § 2.1.1.

How grievous a thing it is to be disgraced by a public court; how grievous to suffer a fine, how grievous to suffer banishment; and yet in the midst of any such disaster some trace of liberty is left to us. Even if we are threatened with death, we may die free men. But the executioner, the veiling of the head, and the very word “cross” should be far removed not only from the person of a Roman citizen but from his thoughts, his eyes and his ears. For it is not only the actual occurrence of these things or the endurance of them, but liability to them, the expectation, nay, the mere mention of them, that is unworthy of a Roman citizen and a free man. Or shall it be said that while a kind master, by a single act of manumission, frees a slave from the fear of all these punishments, we are not to be freed from scourgings, from the executioner’s hook, nor even from the dread of the cross by our achievements, by the lives we have led or even by the honours you have bestowed upon us?

*misera est ignominia iudiciorum publicorum, misera multatio bonorum, miserum exilium; sed tamen in omni calamitate retinetur aliquod vestigium libertatis. mors denique si proponitur, in libertate moriamur; carnifex vero et obductio capitis et nomen ipsum crucis absit non modo a corpore civium Romanorum, sed etiam a cogitatione, oculis, auribus. harum enim omnium rerum non solum eventus atque perpassio, sed etiam condicio, expectatio, mentio ipsa denique indigna cive Romano atque homine libero est. an vero servos nostros horum suppliciorum omnium metu dominorum benignitas vindicta una liberat, nos a verberibus, ab unco, a crucis denique terrore neque res gestae neque acta aetas neque vestri honores vindicabunt?*⁹⁴

Blake Tyrrell comments that the last sentence as “an argument aims at the feelings of superiority which citizens no matter how lowly had over slaves.”⁹⁵ Perhaps Kuhn is correct to deny that this represents the point of view of “the masses,” given that Cicero, a *novus homo*, was born an equestrian who later was granted entry into the senatorial order and reached the highest position available, that of consul.⁹⁶ Cicero himself points out that in the oration he used the technique of *amplificatio* (amplification) as opposed to a “simple” or “moderate” style (*ius omne retinendae maiestatis Rabirii causa continebatur: ergo in ea omni genere amplificationis exarsimus* [the whole principle of maintaining the dignity of the republic was at stake in the speech *In Defence of Rabirius*, therefore in this we blazed forth with every kind of rhetorical amplification]).⁹⁷ The author of the *Rhetoric to Herennius* defines it so: *Am-*

⁹⁴ Cic. Rab. Perd. 16, trans. of Hodge, Cicero, 467-9.

⁹⁵ Tyrrell, A Legal and Historical Commentary, 100 with ref. also to Cic. Agr. 2.22 and Sal. Jug. 31.11. Cf. Tyrrell *ibid.*, 101 on the problems of manumission (*vindicta*).

⁹⁶ Kuhn, Kreuzesstrafe, 766.

⁹⁷ Cic. Orat. 102. Trans. of Cicero, Orator, LCL, ed. and trans. H. M. Hubbell, Cambridge, MA/London 1939, 381. The charge against Rabirius was *maiestas* (dignity, majesty) in this version. The three levels of eloquence are (Orat. 100): *is est enim eloquens qui et humilia subtiliter et alta graviter et mediocria temperate potest dicere* (he, in fact, is eloquent who can speak about commonplace matters simply, lofty subjects impressively, and topics ranging in between in a middle style, trans. of J. M. May, Cicero As Rhetorician, in: A Companion to Roman Rhetoric, ed. W. J. Dominik and J. C. R. Hall, Oxford 2007, 250-63, esp. 261).

plificatio est oratio, quae aut in iracundiam inducit aut ad misericordiam trahit auditoris animum (Amplification is an oration, which either moves the mind of the hearer to mercy or to anger).⁹⁸ The fact, however, that Cicero used an exalted or “amplified” style in the oration to persuade his audience does not denigrate the importance of his view of crucifixion as an elite Roman citizen. Although he clearly distinguishes between the rights of citizens and slaves, he expresses compassion for slaves’ liability to crucifixion and other punishments. The plebeians were in the audience too, and it is hard to doubt that they were probably affected by Cicero’s rhetoric due to the horrible nature of death by crucifixion. Kuhn’s point is well taken, however, because of such texts as CIL IV 9983a, where the “masses” in Cumae went to enjoy a gladiatorial spectacle that included individuals who were to be crucified.⁹⁹

In a letter written between Oct. 25 and Dec. 10, 59 to his brother Quintus, *propraetor of Asia*, Cicero seems willing to accept crucifixion in a certain case concerning an *equus*, Catienus:

Why did you send such a letter to him [Catienus]? That he was erecting that cross for himself, from which you had already pulled him down before?

Cicero continues:

you would see to it that he is smoked to death to the applause of the whole province? Why did you have to write to C. Fabius, whoever he may be (that’s another letter which T. Catienus is toting around), that it was reported to you that taxes were being collected by ‘yon kidnapping villain Licinius and his young sparrowhawk of a son’? You proceed to ask Fabius to burn both father and son alive if he can; if not, he is to send them to you so that they can be burnt up in court.

*eius modi litteris quas ad ipsum misisti? illum crucem sibi ipsum constituere, ex qua tu eum ante detraxisses; te curaturum fumo ut combureretur plaudente tota provincia. quid vero ad C. Fabium nescio quem (nam eam quoque epistolam T. Catienus circumgestat), renuntiari tibi Licinium plagiarium cum suo pullo miluino tributa exigere? deinde rogas Fabium ut et patrem et filium vivos comburat, si possit; si minus, ad te mittat uti iudicio comburantur.*¹⁰⁰

Cicero’s usage shows that one could be pulled off (*detraxisses*) from a cross alive, and so his concept of crucifixion excludes impalement. Peter Garnsey argues that “If he [Quintus] was as good as his word, T. Catienus, ‘equestri censu’, was in danger of crucifixion and cremation.” Cicero only criticizes the “violence of his brother’s language, ‘invidiosam atrocitatem verborum’.

⁹⁸ Rhet. Her. 3.23. Cp. Lausberg, Handbuch, § 400-9.

⁹⁹ Chapt. 2 § 3.9.

¹⁰⁰ Cic. Q. fr. 1.2.6. Trans. of Cicero, Letters to Quintus and Brutus ... LCL, ed. and trans. D. R. Shackleton Bailey, Cambridge, MA/London 2002, 53. The first two sentences (Why did .. before?) are my own trans. Cp. Cicero, Ver. 2.1.45 *fumo excruciatum semivivum reliquit* ([an ally and friend of Rome] was put through the agonies of suffocation, and left there more dead than alive, trans. of Greenwood, Cicero, 1.169).

Thus it is not an unreasonable assumption that Quintus was able to try citizens on criminal counts. He might not have carried out his threats; but that is irrelevant to the issue.”¹⁰¹ The polar opposite of this interpretation is that of W. W. How who argues, “It is rash to build any theory of the unlimited power of the provincial governor on these wild and whirling words of Q. Cicero, since his bark was much worse than his bite. Only a governor like Verres really crucified a Roman citizen.”¹⁰² Quintus had sewn two Mysian parricides in the sack (*culleus*), so he was capable of cruel punishments.¹⁰³

Cicero, in his senatorial speech (55 B.C.E.) against L. Caesonius Calpurnius Piso, attacked Piso’s governorship of Macedonia (57-55). Gabinius, who had been consul with Piso in 58, had returned from his governorship of Syria (57-55) and was prosecuted for *repetundae* (extortion) and sent into exile in 54.¹⁰⁴ Cicero, in a rhetorical flourish, condemns both men:

Or if I were to see you and Gabinius affixed to a cross, should I feel a greater joy at the laceration of your bodies than I feel now at that of your reputations? For that is not to be reckoned a punishment at all which by some mischance good and brave men may find inflicted upon themselves;

*An ego, si te et Gabinium cruci suffixos viderem, maiore adficerer laetitia ex corporis vestri laceratione quam adficio ex famae? nullum est supplicium putandum quo affici casu aliquo etiam boni viri fortesque possunt.*¹⁰⁵

¹⁰¹ P. Garnsey, On the Criminal Jurisdiction of Governors, JRS 58 (1968) 51-59, esp. 56 and cf. a similar position in A. H. J. Greenidge, The ‘Provocatio Militiae’ and Provincial Jurisdiction, CIR 10 (1896) 225-233, esp. 229.

¹⁰² Cicero: Select Letters with Historical Introductions, Notes and Appendices. A New Edition Based upon that of Watson. Revised and Annotated by W. W. How together with a Critical Introduction by A. C. Clark, Volume II: Notes, Oxford 1971 (original ed. 1925-1926), 122. Cf. J. L. Strachan-Davidson, Problems of the Roman Criminal Law, Oxford 1912, 1.123-124: “Now I cannot think that all this can be taken seriously. Quintus Cicero was an incorrigible bully and blusterer but his threatened men live long ... The utmost we can say is that Quintus may have threatened, in jest or in earnest, that when he had to deal with such scoundrels he would break the law and take his chance – perhaps the citizenship of some of them was not beyond dispute – but that ‘his bark was worse than his bite’.” Cp. R. A. Bauman, Human Rights in Ancient Rome, London/New York 2000, 123: “Cicero also protested against his brother Quintus’ threat (apparently meant as a joke) to burn T. Catienus and his father alive ... Something of a comic tradition was attached to burning people alive.” The OLD, s.v. *crux* 1.a identifies the usage as figurative.

¹⁰³ Cic. Q. fr. 1.2.5. On the *culleus*, cf. J. G. Cook, Roman Attitudes toward the Christians. From Claudius to Hadrian, WUNT 261, Tübingen 2010, 78.

¹⁰⁴ E. Badian, Gabinius (2), Aulus, ³OCD, 618, E. Schürer, The History of the Jewish People in the Age of Jesus Christ, vol. I-III/1, rev. and ed. G. Vermes, F. Millar, and M. Goodman, Edinburgh 1973-1986, 1.245-6. He was accused of *maiestas* because he returned Ptolemy Auletes as king of Egypt in 55 B.C.E.

¹⁰⁵ Cic. Pis. 42, trans. of Cicero, vol. 14, LCL, ed. and trans. N. H. Watts, Cambridge, MA/London 1931, 191.

Clearly Cicero is using crucifixion as a rhetorical device here and not seriously contemplating crucifixion as a punishment for either man. He uses “cross” as a metaphor in a further denunciation of Piso, based on the principle that guilt incurs its own punishment (*Quod supplicium? Id mea sententia, quod accidere nemini potest nisi nocenti ...*).¹⁰⁶

What then is retribution? What is punishment? What is stoning? What is the cross? This: that there should be two generals in the provinces of the people of Rome; that they should control armies and bear the title of Imperator; and that one of these should be so utterly unmanned by the consciousness of his crimes and his atrocities, that from a province which was above all others the most prolific in triumphs he should dare to send no dispatch to the senate.

*Quae est igitur poena, quod supplicium, quae saxa, quae cruces? esse duos duces in provinciis populi Romani, habere exercitus, appellari imperatores; horum alterum sic fuisse infrenatum conscientia scelerum et fraudum suarum, ut ex ea provincia quae fuerit ex omnibus una maxime triumphalis, nullam sit ad senatum litteram mittere ausus.*¹⁰⁷

On Jan. 18, 52 two armed gangs of slaves accompanying their masters (T. Annius Milo and P. Clodius Pulcher) met near Bovillae, and in the conflict Milo’s slaves severely wounded Clodius. Subsequently Milo ordered Clodius put to death.¹⁰⁸ Cicero’s speech in defense of Milo was on April 8 according to Asconius.¹⁰⁹ He objected to the use of slaves by Milo’s prosecutors.

When, however, a prosecutor’s slave is being examined to incriminate a defendant, what chance is there of getting at the truth? Well now, what was the manner of examination, and how did it proceed? “Look here, Rufio” (to take an imaginary name), “mind you don’t tell lies! Did Clodius plot against Milo?” “He did.” Result – crucifixion, for sure. “He did not.” Result – a chance of liberty. What could be more infallible than this form of examination? They are haled off for torture without delay, and even then they are isolated and flung into separate cells, that none may hold communication with them.

*in reum de servo accusatoris cum quaeritur, verum inveniri potest? Age vero quae erat aut qualis quaestio? “heus tu Rufio” verbi causa “cave sis mentiare. Clodius insidias fecit Miloni?” “fecit.” certa crux. “nullas fecit.” sperata libertas. quid hac quaestione certius? subito arrepti in quaestionem tamen separantur a ceteris et in arcas coniciuntur, nequis cum iis colloqui possit.*¹¹⁰

The text is an example of crucifixion as the usual penalty for slaves. In 49 (perhaps 21 Jan.) Cicero wrote to his friend Atticus about the rumor that Titus

¹⁰⁶ Cic. Pis. 43.

¹⁰⁷ Cic. Pis. 44, trans. of Watts, Cicero, 193.

¹⁰⁸ Asconius Mil. (SCBO 31-2 Clark), E. Badian, Annius Milo, Titus, ³OCD, 99-100, J. S. Ruebel, The Trial of Milo in 52 B.C.: A Chronological Study, TAPA (1979) 231-49, esp. 233. Clodius was standing for the praetorship and Milo for the consulship; cf. Asconius (30 Clark).

¹⁰⁹ Asconius (30 Clark app. crit.). Clark, however, corrects the MS to April 7. Ruebel, The Trial, 245-47 notes that the date of the trial’s last day is “hotly disputed.”

¹¹⁰ Cic. Mil. 59-60, trans. of Watts, Cicero, vol. 14, 73.

Labienus had abandoned Caesar for Pompey.¹¹¹ With regard to Caesar's desire for autocratic rule, Cicero writes:

I would rather a single hour with you, warming myself in that "bonus" sunshine of yours, than all such autocracies, or rather I had sooner die a thousand deaths than entertain one such thought. You may say "But supposing you did wish for it?" Come! Anyone is allowed to wish. But I reckon the mere wish a sorrier thing than crucifixion. There is only one thing sorrier still, and that is for a man in such a case to get what he wishes for.

*unam mehercule te cum apricationem in illo lucrativo tuo sole malim quam omnia istius modi regna, vel potius mori miliens quam semel illius modi quicquam cogitare. "Quid si tu velis?" inquis. age, quis est cui velle non liceat? sed ego hoc ipsum velle miserius esse duco quam in crucem tolli. una res est ea miserior, adipisci quod ita volueris.*¹¹²

He consequently equates the wish for autocracy with the misery of crucifixion, clearly a rhetorical use of the punishment.

In 45 Deiotarus, king of Galatia, was accused by his grandson, Castor, of plotting against Caesar. Caesar was judge (*iudex*) in the trial, which took place in his house.¹¹³ At one point, Castor argues that in his plotting against Caesar, Deiotarus was happy to hear that Caesar was being besieged in Alexandria.¹¹⁴ Cicero uses "cross" against his opponent:

And what next? What is the next assertion of this gallows-bird? He says that Deiotarus, elated by the glee which this news inspired, fuddled himself with wine and danced naked at a banquet. Can the cross inflict adequate torture upon this runaway?

*quid deinde? furcifer quo progreditur? ait hac laetitia Deiotarum elatum vino se obruisse in convivioque nudum saltavisse. quae crux huic fugitio potest satis supplicii adferre?*¹¹⁵

The image depends on the fact that fugitive slaves were subject to crucifixion.

In his philosophical discourse on *The Ends of Goods and Evils* (or *Highest Goods and Evils*),¹¹⁶ he mentions crucifixion twice. The first occurs in context of a discussion of the Stoic understanding of happiness in an argument against Platonic ethics and its three varieties of goods (as expounded by Cicero): *Dolere malum est; in crucem qui agitur, beatus esse non potest*

¹¹¹ Cf. W. B. Tyrrell, Labienus' Departure from Caesar in January 49 B.C., *Hist.* 21 (1972) 424-440, esp. 431.

¹¹² Cic. Att. 7.11.2, trans. of Cicero, *Letters to Atticus*, vol. 2, LCL, ed. and trans. D. R. Shackleton Bailey, Cambridge, MA/London 1999, 227.

¹¹³ S. M. Cerutti (Cicero's Accretive Style: Rhetorical Strategies in the Exordia of the Judicial Speeches, London 1996, 136) believes it took place in the *domus publica*, where Caesar lived after becoming pontifex maximus in 63 (Suet. Iul. 46).

¹¹⁴ Cp. Cic. Deiot. 13.

¹¹⁵ Cic. Deiot. 26, trans. Cicero, *Orations*, vol. 14, LCL, ed. and trans. N. H. Watts, Cambridge, MA/London 1931, 525.

¹¹⁶ "Highest Goods and Evils" is the preferred trans. in Cicero, *On Moral Ends*, trans. by R. Woolf and intro. and notes by J. Annas, Cambridge 2001, xxxviii. It was written in June, 45 (Ibid., ix). Cf. Cic. Att. 13.19.4.

(Pain is an evil: then a man sentenced to crucifixion cannot be happy).¹¹⁷ Cicero's ultimate vision of the life of Polycrates is positive:

But Polycrates, if he was foolish (which he certainly was, since he was a tyrant), was never happy; if wise, he was not miserable even when crucified by Oroetes, the satrap of Darius. "But," you say, "many evils befell him!" Who denies it? but those evils were eclipsed by the magnitude of his virtue.

*ille vero, si insipiens – quod certe, quoniam tyrannus – , numquam beatus; si sapiens, ne tum quidem miser, cum ab Oroete, praetore Darei, in crucem actus est. At multis malis affectus. Quis negat? sed ea mala virtutis magnitudine obruebantur.*¹¹⁸

Apparently the fruits of virtue can overcome even the agony of crucifixion.

After Cicero completed *De finibus* in 45 he wrote his *Tusculan Disputations*.¹¹⁹ In a passage he alludes to the philosopher Theodorus's attitude toward death after admitting to the common admiration for the training of the Spartans:

Yes, but do we not admire Theodorus of Cyrene,¹²⁰ no mean philosopher? When King Lysimachus threatened him with crucifixion: "Make, I beg," said he, "your abominable threats to those courtiers of yours in the scarlet liveries; it makes no difference to Theodorus whether he rots on the ground or in the air."

*quid? Cyrenaeum Theodorum, philosophum non ignobilem, nonne miramur? cui cum Lysimachus rex crucem minaretur, "istis, quaeso" inquit "ista horribilia minitare purpuratis tuis: Theodori quidem nihil interest, humine an sublimi putescat."*¹²¹

In Theodorus's depiction of execution, he is denied burial as were many of those crucified by the Romans.¹²²

After Cicero reentered public life in 44-43 he produced (and delivered) the series of orations known as the *Philippics* against M. Antonius.¹²³ He describes Antony's siege of Mutina in Cisalpine Gaul (43), in which he fought against Octavian.

¹¹⁷ Cic. Fin. 5.84, trans. of Cicero, *De finibus bonorum et malorum*, LCL, ed. and trans. H. Rackham, Cambridge, MA/London 1914, 487.

¹¹⁸ Cic. Fin. 5.92, trans. of Rackham, Cicero, 497.

¹¹⁹ Cic. Tusc. 5.32.

¹²⁰ He was of the Cyrenaic school of philosophy according to Diogenes Laertius 2.85. He had been banished from Athens and was once sent there to Lysimachus (a successor of Alexander) as an ambassador of Ptolemy son of Lagus (Diog. Laert. 2.102). Cicero (Tusc. 34.83) uses *Cyrenaicus* to denote the Cyrenean school of philosophy.

¹²¹ Cic. Tusc. 1.102 = test. 8 (BiTeu, *Diagorae Melii et Theodori Cyrenaei reliquiae*, ed. M. Winiarczyk, 34,4-7). Trans. of Cicero, *Orations*, vol. 18, LCL, ed. and trans. J. E. King, Cambridge, MA/London 1927, 123. Lysimachus threatens him with death by poison in Tusc. 5.117. Cp. V. Max. 6.2. ext. 3 (§ 2.5 below) and chapt. 3 § 2.6 (Plutarch).

¹²² Cook, *Crucifixion and Burial*, 207-8 and chapt. 6 § 1.2.

¹²³ J. G. F. Powell, Cicero (1), Marcus, Works, ³OCD, 1560-62, esp. 1561.

Afterward what evil, what crime, did that traitor not commit? He blockaded our colonists, an army of the Roman people, a general, a consul elect;¹²⁴ he ravaged the lands of the noblest citizens; the vilest enemy of all good people threatens them with crosses and tortures.

*postea quod scelus, quod facinus parricida non edidit? circumsedet colonos nostros, exercitum populi Romani, imperatorem, consulem designatum; agros diuexat ciuium optimorum; hostis taeterrimus omnibus bonis cruces ac tormenta minitatur.*¹²⁵

In this case the crosses are probably literal. Cicero's description of Gavius's long suffering on the cross shows that all the texts above should be read in that light (i.e., he does not understand crucifixion to be impalement).

1.7 *Ps. Caesar*

The unknown author of the *Bellum Africum* describes Caesar's wars there in 47-46 B.C. in the area around Hadrumetum.¹²⁶ In a passage he mentions his opponent, Titus Labienus, who had deserted to Pompey's forces.

The next day Juba [I] fixed to the cross all the Numidians who had abandoned their post and retreated in flight to the camp.

*postero die Iuba Numidas eos qui loco amisso fuga se receperant in castra, in cruce omnes suffixit.*¹²⁷

This treatment of the soldiers is in accord with Roman practice although, it was carried out by a Numidian general. *Suffixit* implies the use of nails or some other kind of fetters.¹²⁸

1.8 *Gaius Valerius Catullus (ca 84-45 B.C.E.)*

Catullus has a metaphorical use of crucifixion in a poem to his friend Iuuentius.

I stole from you while you were teasing, honey-sweet Iuuentius, a little kiss sweeter than sweet ambrosia. But I did not get away with it unpunished. For I remember being nailed to the top of a cross for more than an hour while I apologized to you and could not for all my tears diminish a bit of your fury.

*Surripui tibi, dum ludis, mellite Iuuenti,
saviolum dulci dulcius ambrosia.
verum id non impune tuli: namque amplius horam
suffixum in summa me memini esse cruce,
dum tibi me purgo nec possum fletibus ullis*

¹²⁴ Presumably Cicero means Decimus Iunius Brutus (imperator and consul designate) whom Antony besieged in Mutina, mentioned in Phil. 3.15.

¹²⁵ Cic. Phil. 13.21.

¹²⁶ C. B. R. Pelling, *Bellum Africum*, ³OCD, 238 and E. Badian, Juba (1) I, *ibid.*, 799. Cf. B. Afr. 62.5 and 67.1 (Hadrumetum).

¹²⁷ B. Afr. 66.4

¹²⁸ Cp. CIL XI, 5820a *trabes tecti ferro suffixit* (he fixed/supported roof beams with iron).

*tantillum vestrae demere saevitiae.*¹²⁹

Although “cross” here is a metaphor, Catullus uses Roman practice to describe the torture he endured, torture similar to those who were suspended while attached to their crosses.

1.9 Gaius Sallustius Crispus (probably 85-35 B.C.E.)

Sallustius, the Roman historian, wrote his work on the Jugurthine war ca 41-40 B.C.E. Jugurtha’s surviving brother Adherbal delivered these words, according to Sallustius, to the Senate:

Relatives, friends, and others who were near to me have fallen by one blow or another. Of those taken by Jugurtha some have been crucified, others thrown to wild beasts; a few, whose lives were spared, in gloomy dungeons amid sorrow and lamentation drag out an existence worse than death.

*adfinis amicos propinquos ceteros meos alium alia clades oppressit: capti ab Iugurtha pars in crucem acti, pars bestiis obiecti sunt, pauci, quibus relicta est anima, clausi in tenebris cum maerore et luctu morte graviores vitam exigunt.*¹³⁰

These Numidian punishments resemble the *summa supplicia* of Rome. Sallustius is willing to classify these executions as crucifixions given his knowledge of Roman practice.

1.10 Quintus Horatius Flaccus (8 Dec. 65 - 27 Nov. 8 B.C.E.)

Horace wrote his *Satires* around 30 B.C.E. He describes the master’s rights over a slave in a satire on forbearance:

If one were to crucify [fasten to a cross] a slave who when bidden to take away a dish, has greedily licked up the half-eaten fish and its sauce, now cold, sane men would call him more insane than Labeo.

*siquis eum servum, patinam qui tollere iussus
semeso piscis tepidumque ligurrierit ius,
in cruce suffigat, Labeone insanior inter
sanos dicatur.*¹³¹

¹²⁹ Catul. 99.1-6. Trans. of J. H. Gaisser, Catullus, Oxford et al. 2009, 65. She discusses the sexual humiliation of Catullus by Juventius. Cp. Hor. S. 1.3.82 (*in cruce suffigat*), Sen. Con. 7.6.14 (§ 1.14 below), Sen. Ep. 101.12 (§ 2.3 below) and other texts where *suffigere* is used in contexts of crucifixion.

¹³⁰ Sal. Jug. 14.15 trans. of Sallust, LCL, ed. and trans. J. C. Rolfe, Cambridge, MA/London 1921, 161-3.

¹³¹ Hor. S. 1.3.80-83, trans. of Horace, Satires, Epistles, Ars Poetica, LCL, ed. and trans. H. R. Fairclough, Cambridge, MA/London 1929, 39. Horace’s view of the jurisconsult Labeo must have been conditioned by his admiration of Augustus. For Labeo’s freedom of speech, cf. Tac. Ann. 3.75.1-2 and Suet. Aug. 54. Pomponius Porphyrio writes (ad S. 1.3.82-

This text is another dreary example of the fear of crucifixion that slaves had to endure.¹³² An image sometimes taken to refer to crucifixion concerns two witches, Canidia and Sagana, who make two statues, apparently to ensnare a lover:

One image there was of wool and one of wax, the woollen one the larger, to curb and punish the smaller; the waxen stood in suppliant guise, as if awaiting death in slavish fashion.

*lanea, et effigies erat, altera cerea: maior
lanea, quae poenis compesceret inferiorem;
cerea suppliciter stabat, servilibus ut quae
iam peritura modis.*¹³³

A fire, however, destroys the image of wax (*et imagine cerea largior arserit ignis*).¹³⁴ Presumably the woolen statue represents Canidia and the wax statue represents her “recalcitrant lover” whose resistance she melts by magic.¹³⁵ It is possible that crucifixion is one of the tortures envisioned, but fire seems to be the primary intention of the text. Torture by fire did occasionally precede crucifixion, however, and Horace may be using that image here.

In a dialogue between Horace and his slave Davus on the occasion of the Saturnalia when slaves could speak freely, Davus taunts his master over his sexual passions:

You are the slave of another man’s wife; Davus a poor harlot. Which of us commits a sin more deserving of the cross?

*te coniunx aliena capit, meretricula Davum:
peccat uter nostrum cruce dignius?*¹³⁶

The slave proceeds to describe his own sexual satisfaction after the encounter whereas Horace subjects himself to the rod (*uirgis*) or sword or the lesser humiliation of hiding in a chest.¹³⁷ In his letter to Quintus, Horace discusses Stoic virtue and at one point asks what is a good man (*Vir bonus est quis?*). He finds the reply “I have kept the laws” to be inadequate.¹³⁸

3 [245, 31-2 Holder]) *Propter quod nunc Horatius adulans Augusto, insanum eum dixit* (because he fawned upon Augustus, he called him [Labeo] crazy).

¹³² Cp. the *lex Puteolana* (chapt. 5 § 1.4) and the denial in Lucian Prom. 10 (chapt. 3 § 2.10) that any slave was ever crucified for such an offence.

¹³³ Hor. S. 1.8.30-3, trans. of Fairclough, Horace, 99. Hengel, Crucifixion, 51 takes the text as a reference to crucifixion.

¹³⁴ Hor. S. 1.8.43-4.

¹³⁵ Cf. E. Oliensis, Horace and the Rhetoric of Sexuality, Cambridge et al. 1998, 70 and K. B. Stratton, Naming the Witch. Magic, Ideology, & Stereotype in the Ancient World, New York 2007, 81.

¹³⁶ Hor. S. 2.7.46-7, trans. of Fairclough, Horace, 229.

¹³⁷ Hor. S. 2.7.58-9.

¹³⁸ Hor. Ep. 1.16.40-1.

If a slave were to say to me, "I never stole or ran away": my reply would be, "You have your reward; you are not flogged." "I never killed anyone." "You'll hang on no cross to feed crows."

*"nec furtum feci nec fugi" si mihi dicat
servus, "habes pretium, loris non ureris," aio.
"non hominem occidi." "non pasces in cruce corvos."*¹³⁹

In this fictional scene the crucified slave received no burial. Masters, in Horace's vision, do not crucify slaves for theft but do crucify them for murder.

An ode of Horace refers to the poet Iullus Antoninus:

You, a poet of larger quill, will celebrate Caesar, when, decorated with a well-earned wreath of bay, he drags fierce Sygambri up the Sacred Hill.

*concines maiore poeta plectro
Caesarem, quandoque trahet feroces
per sacrum clivum merita decorus
fronde Sygambros,*¹⁴⁰

Pseudo Acron explains the reference thus:

Because, before they were captured, they fixed and stretched out on crosses some Roman centurions who had been sent for taxes.

*Quia, antequam caperentur, centuriones Romanos, qui ad stipendia missi erant, tentos crucibus defixerunt.*¹⁴¹

Although Horace does not mention the crucifixions explicitly, he apparently knew of them. With regard to the Fescennine songs of farmers that occasionally became abusive (and resulted in a law against the harmful or magical use of them),¹⁴² Horace wrote:

Men changed their tune, and terror of the cudgel led them back to goodly and gracious forms of speech.

*... vertere modum, formidine fustis
ad bene dicendum delectandumque redacti.*¹⁴³

Pseudo Acron explains:

Cudgels, I do not think "of the cross" is meant, for it is clearly concerning freeborn individuals, nor is it derived from dogs, for when they fear cudgels, they abstain from biting.

¹³⁹ Hor. Ep. 1.16.46-8, trans. of Fairclough, Horace, 355. Pseudacron (V C.E.) Scholia in Ep. 1.16 (BiTeu II, 260,6-7 Keller) has *Et si non occidisti hominem, non suspenderis in cruce* (and if you have not killed a person, you will not be suspended on a cross).

¹⁴⁰ Hor. Epod. 4.2.33-6, trans. of Horace, Odes and Epodes, LCL, ed. and trans. N. Rudd, Cambridge, MA/London 2004, 223. The sacred hill "led to the capitol" according to Rudd.

¹⁴¹ Pseudacron Scholia in Epod. 4.2.34 (BiTeu I, 332,7-9 Keller).

¹⁴² Cic. Rep. 4.12. Cf. A.-M. Tupet, Rites magiques dans l'antiquité romaine in: ANRW II/16.3 (1986) 2591-675, esp. 2593.

¹⁴³ Hor. Ep. 2.1.154-5, trans. of Fairclough, Horace, 409.

*Fustis Non puto "crucis" dici, quippe de ingenuis †¹⁴⁴ sed p<a>ene uel a canibus tractum est: nam cum fustes metuunt, a morsibus abstinēt.*¹⁴⁵

Pseudo Acron in this case knows of the terror that crosses inspired and was aware that crucifixion was inappropriate for freeborn people.

1.11 Sextus Propertius (b. between 54-47)

Propertius's first book of *Elegiae* was probably published in 28 B.C.E.¹⁴⁶ In a poem to his friend Tullus the poet invites him home from Cyzicus and remarks in Italy that here there are not a number of undesirable things:

... and no "cross-trees" [torture trees] of Sinis, nor the rocks that were hospitable to the Greeks, nor the beams curved for one's fate.

*arboreasque cruces Sinis, et non hospita Grais
saxa et curuatas in sua fata trabes.*¹⁴⁷

According to Ps. Apollodorus's *Bibliotheca*, Sinis was the son of Polypemon and was called the "Pine-bender" (πιτυοκάμπτης), because he forced travelers to bend the trees until they killed them by throwing them. Theseus killed Sinis likewise.¹⁴⁸ According to Diodorus he would fasten each arm to a pine tree that he had bent over and then release the trees, thus tearing the victims apart.¹⁴⁹ However the legendary Sinis put people to death, it was not crucifixion in the normal sense, although his method of attaching people to trees suggested crucifixion imagery.

1.12 Gaius Maecenas (d. 8 B.C.E.)

The poet Maecenas, a friend of Augustus, was well known for his taste for luxury.¹⁵⁰ A fragment of his poetry found in Seneca mentions crucifixion:

Fashion me with a palsied hand, weak of foot and a cripple. Build upon me a crook-backed hump. Shake my teeth till they rattle. All is well if my life remains. Save, oh save it, I pray you, Though I sit on the piercing [or sharp] cross.

Debilem facito manu, debilem pede coxo,

¹⁴⁴ There may be a lacuna here.

¹⁴⁵ Pseudacron Scholia in Ep. 2.1.154 (II, 289,21-3 Keller).

¹⁴⁶ R. O. A. M. Lyne, Propertius, Sextus, ³OCD, 1258-9.

¹⁴⁷ Prop. 3.22.37-8 (BiTeu 207 Fedelli).

¹⁴⁸ Apollodorus Bibl. 3.16.2 = 3.218. Cp. J. G. Frazer's note in Apollodorus, The Library, 2 vols., LCL, ed. and trans. J. G. Frazer, Cambridge, MA/London 1921, 1.124-5.

¹⁴⁹ Diodorus 4.59.3. Pausanias 2.1.4 gives a similar description and claims Theseus killed Sinis in the same way. Cf. Halm-Tisserant, *Realités*, 49-50.

¹⁵⁰ J. Griffin, Maecenas, Gaius, ³OCD, 907-8. Cp. Tac. Ann. 1.54.2 and E. M. Smith, Some Roman Dinner Tables, CJ 50 (1955) 255-60, 70, esp. 257 with ref. to Hor. Carm. 1.20.1-12 (Maecenas will drink cheap Sabine wine at Horace's instead of good Calenian or Falernian wine).

*tuber adstrue gibberum, lubricos quate dentes:
vita dum superest, bene est! hanc mihi vel acuta
si sedeam cruce sustine* [lacuna]¹⁵¹

The poem may be satire on Maecenas's part.¹⁵² This is probably not an impalement, since Seneca's comment in the text below implies that Maecenas wants to prolong his life at any cost, even if he were suspended, stretched out on a *patibulum* (*patibulo pendere districtum*).¹⁵³ The text of Maecenas justifies Seneca's interpretation. Maecenas could not have sustained (*sustine*) his life if he were impaled, because that would have resulted in immediate death. The reference to sitting is probably to the *sedile* as illustrated by the Puteoli graffito (figures 5-7).

1.13 Titius Livius (59-17 C.E.)

Livy describes some of the earliest uses of crucifixion.¹⁵⁴ He attributes the practice to the Carthaginians. In the first Punic War, Hannibal, son of Gisgo, was punished for his defeat (by Gaius Sulpicius Paterculus) at sea off Sulci:

Hannibal, general of the Carthaginians, when the fleet that he commanded had been defeated, was crucified by his soldiers.

*Hannibal, dux Poenorum, victa classe, cui prae fuerat, a militibus suis in crucem sublatus est.*¹⁵⁵

¹⁵¹ Maec. Poet. frag. 4 (BiTeu Fragmenta poetarum latinarum, 246 Morel/Büchner/Blänsdorf) = Sen. Ep. 101.10, trans. Seneca, Ad Lucilium epistulae morales, vol. 1-3, LCL, ed. and trans. R. Gummere, Cambridge, MA/London 1925, 3.165.

¹⁵² Horace, Odes II Vatis Amici. Text, Translation and Commentary, D. A. West, Oxford 1998, 121-22 (West comments on the poet's Epicurean tendencies). Cp. Sen. Ep. 92.35 = Maec. Poet. frag. 8 (247 M./B./B.) *nec tumulum curo: sepelit natura relictos* (I don't care about a grave, nature buries what's left behind).

¹⁵³ Sen. Ep. 101.12 (cf. § 2.3 below). It is often interpreted as impalement. Cf., e.g., A. S. Hollis, Fragments of Roman Poetry c. 60 BC-AD 20, Oxford 2007, 316, 323. Hengel, Crucifixion, 20 translates the expression as "piercing cross," however, and refers to the "peg" that supports the body. This also is the interpretation of Pearson, Exposition of the Creed, 310, who argues that Maecenas's phrase refers to the *sedile*, and F. Harder, Über die fragmente des Maecenas, Berlin 1889, 17. Cp. intro. § 3.4.

¹⁵⁴ Cf. chapt. 2 § 2.1.

¹⁵⁵ Liv. Perioch. 17 (BiTeu 22,6-7 Rossbach). This passage is preceded by a reference to Atilius Calatinus who was consul in 258. Orosius 4.8.4 has him stoned by his own soldiers (*ab exercitu suo seditione orta lapidibus coopertus interiit*). In Polybius (1.24.6) he is crucified. A useful summary of the battle is Å. Eliaeson, Beiträge zur Geschichte Sardinien und Corsicas im ersten punischen Kriege, Uppsala 1906, 60-1 with particular reference to the main source, Zonaras 8.11.10, 12.4-6 (BiTeu II, 205,27-9; 207,4-24 Dindorf). Cp. Scullard, Carthage and Rome, in: CAH² VII/2 (1989) 486-572, esp. 553. For Hannibal's father, see Zonaras 8.10.2 (BiTeu 201,3 Dindorf) and for his son (Hannibal) and defeat, see F. Lazenby, The First Punic War. A Military History, Stanford, CA 1996, 74, 76-7.

It is difficult to know historically if Livy was incorrectly attributing the Roman practice of crucifixion to the Carthaginians, or if the Carthaginians did indeed practice some form of crucifixion (and not simply impalement). Nevertheless, Livy believed that they were responsible for what a Roman would have called crucifixions.

In the second Punic War, Hannibal had a guide crucified who had mistaken “Casilinum” for “Casinum”¹⁵⁶:

And only when the guide had answered that he should lodge that night in Casilinum, did he perceive at last how the man had blundered, and that Casinum lay far off in another direction. Whereupon he scourged the guide, and to terrify the others, crucified him [raised him to a cross], and going into camp behind entrenchments, dispatched Maharbal with the cavalry to ravage the Falernian countryside.

*cum is Casilini eo die mansurum eum dixisset, tum demum cognitus est error et Casinum longe inde alia regione esse; uirisque caeso duce et ad reliquorum terrorem in crucem sublato, castris communitis Maharbalem cum equitibus in agrum Falernum praedatum dimisit.*¹⁵⁷

The sequence of scourging and crucifixion corresponds to frequent Roman practice. Tiberius Gracchus in 214 B.C. with an army made up primarily of slave volunteers promised his soldiers this:

Whoever should bring back the head of an enemy would by his order be a free man at once. Whoever retreated from his post would meet the punishment of a slave. Each man's fortune was in his own hand.

*qui caput hostis rettulisset, eum se ex templo liberum iussurum esse; qui loco cessisset, in eum servili supplicio animadversurum; suam cuique fortunam in manu esse.*¹⁵⁸

The *servili supplicio* was probably crucifixion, the usual capital penalty for slaves.¹⁵⁹ In 206 Hannibal's brother Mago attempted to enter Gades (Cadiz) and complained that the gates were shut against him. The Gaditani defended themselves by claiming that some of his soldiers had engaged in looting:

He thereupon enticed their sufetes¹⁶⁰ – the highest magistrates among the Phoenicians – together with the treasurer to a conference and ordered them to be scourged and crucified.

*... ad conloquium sufetes eorum, qui summus Poenis est magistratus, cum quaestore elicit, laceratosque uerberibus cruci adfigi iussit.*¹⁶¹

¹⁵⁶ On the difficulty Carthaginians had in pronouncing Latin, cf. J. N. Adams, *Bilingualism and the Latin Language*, Cambridge 2003, 206.

¹⁵⁷ Liv. 22.13.9, trans. of Livy, with an English Translation in Fourteen Volumes, LCL, ed. and trans. B. O. Foster et al., Cambridge, MA/London 1919-1959, 5.245.

¹⁵⁸ Liv. 24.14.7. Trans. of Moore, Livy, 6.219.

¹⁵⁹ Chapt. 4 § 2.1.4, § 3.7 and chapt. 5 § 1.1.

¹⁶⁰ Cf. OLD, s.v. “An annual chief magistrate of Carthaginian cities.”

¹⁶¹ Liv. 28.37.2, trans. of Moore, Livy, 8.149.

Again, the sequence of scourging and crucifixion corresponds to Roman custom. *Adfigi* implies the use of nails or another kind of fetter.

The legate, Quintus Pleminius in 204 B.C.E. tortured some military tribunes with “servile tortures,” executed them, and did not allow them to be buried. The tribunes themselves (Marcus Sergius and Publius Matienus) had slashed Pleminius’s nose and ears in a mutiny.

Then when the legatus had recovered from his wounds and the tribunes of the soldiers had been thrown into chains, then, after scourging them and racking them with all the torments applied to slaves, he put them to death, then forbade the burial of the dead.

recreatus dein legatus ex uolneribus tribunos militum in uincla coniectos, dein uerberibus adfectos seruilibusque omnibus suppliciis cruciatos¹⁶² occidit, mortuos deinde prohibuit sepeliri.¹⁶³

A parallel text does not indicate crucifixion:

Accordingly he ordered the tribunes to be brought before him, and had them mangled by every torture which any human body can endure and then put to death. Not satisfied with a penalty paid by the living either, he threw them out unburied.

tribunos attrahi ad se iussit, laceratosque omnibus quae pati corpus ullum potest suppliciis interfecit, nec satiatum uiuorum poena insepultos proiecit.¹⁶⁴

It is unclear whether Pleminius crucified the tribunes. Livy does not explicitly mention crucifixion. He seems to distinguish between the tortures and the act of execution itself.

Gnaeus Manlius Vulso, who had achieved victories in Galatia, made a reference to Carthaginian practice in a speech before the Senate in 187. He was defending himself from the charge that he started the war.

In this I for my part should trust my own cause even if I were pleading, not before the Roman but before the Carthaginian senate, where commanders are said to be crucified [lifted up on a cross] if they have conducted a campaign with successful result but defective policy;

In quo confiderem equidem causae meae, etiam si non apud Romanum sed apud Carthaginiensem senatum agerem, ubi in crucem tolli imperatores dicuntur, si prospero euentu, prauo consilio rem gesserunt;¹⁶⁵

¹⁶² A variant here is *trucidatos cruciando*, which implies that their bodies were butchered. The variant is from the original scribe’s correction to codex Puteanus, Paris Bibl. Nat. 5730 (V C.E.).

¹⁶³ Liv. 29.18.14, trans. of Moore, Livy, 8.279. Cp. 29.9.10 and Diodorus Siculus 27.4.5 (Pleminius tortured the tribunes and executed them; there is no mention of crucifixion): ὁ δὲ Πλημίνιος συλλαβὼν τοὺς χιλιάρχους καὶ δειναῖς αἰκίαις περιβαλὼν διέφθειρεν, Hengel, Crucifixion, 40 and Kuhn, Kreuzesstrafe, 720 (both Hengel and Kuhn think Livy describes a crucifixion). 29.9.2: Sergius and Matienus.

¹⁶⁴ Liv. 29.9.10, trans. of Moore, Livy, 8.243.

¹⁶⁵ Liv. 38.48.13, trans. of Sage, Livy, 11.169.

Since the practice of Roman crucifixion appears to have emerged in the second Punic War, Livy's reports of Carthaginian crucifixions are credible.¹⁶⁶

1.14 Lucius Annaeus Seneca (b. ca 50 B.C.E.-ca 40 C.E.)

Although born in Corduba, the elder Seneca came to Rome to work. The rhetorician's sons included Seneca, the Stoic philosopher, the Gallio of the NT, and another son who was the father of Lucan. He describes a case similar to one in Ps. Quintilian which concerns the proposed crucifixion of a slave who refused to give his master poison:

A sick master asked his slave to give him poison; he refused. The master put a provision in his will that the slave should be crucified by his heirs. The slave appeals to the tribunes.

*Aeger dominus petit a servo, ut sibi venenum daret; non dedit. cavit testamento, ut ab heredibus crucifigeretur. appellat servus tribunos.*¹⁶⁷

The slave would have been prosecuted under Sulla's *lex Cornelia de sicariis et veneficis*. Whether slaves could appeal to the tribunes is contested.¹⁶⁸ In any case, the rhetor for the defense argues,

I appeal to you, law of Sulla: take notice, a master is ordering what you forbid. – Do not suppose that he displeased his master: his master ordered a cross for him at the same time as poison for himself. – We have many crimes on the part of the slave to confess; he refused when he was asked to serve unseasonable drinks, harmful food. For his master wanted everything – after all he asked for poison. – “I preferred enduring the cross to deserving it.” – If he loses the case he will die; if he wins, he will be the slave of the man

¹⁶⁶ Cf. chapt. 2 § 2.1.

¹⁶⁷ Sen. Con. 3.9.pr., trans. of Seneca the Elder, *Declamations*, vol. 1-2, LCL, ed. and trans. M. Winterbottom, Cambridge, MA/London 1974, 1.419.

¹⁶⁸ Cf. the discussion below in § 2.20. Winterbottom, Seneca the Elder, 1.418 writes “The *tribuni plebis* had during the republic had the right to aid the oppressed (*latio auxilii*), which passed to the emperors as part of their *tribunicia potestas*. Slaves would not have been able to appeal, thus, but in a declamation this could be disregarded (or disputed: see below, The tribunes cannot [go to the help of a slave, 3.9.1] ...).” This is clearly answered, however, by the lawyer for the slave who mentions Servius Tullius, the king born of a slave woman and a slave who denounced the sons of Brutus for conspiring with the Tarquins. The advocate asks, “Will you put any limits to the power of the tribunes, whom the Roman people, in order to ensure its own supreme power, wanted to be more powerful than itself?” (*ullum tu finem facies tribuniciae potestati, quam populus Romanus, ut ipse plurimum posset, plus valere quam se voluit?* Con. 3.9.1, trans. of Winterbottom, Seneca 1.421) For the slave's dilemma, cf. Dig. 29.5.1.22, part of the *Senatus Consultum Silanianum* from 10 C.E., in which (for example) if an owner commits suicide in the sight of the slaves, they are punished. On the date and on the S.C. in general, cf. F. Gamauf, *Cum aliter nulla domus tuta esse possit...*: Fear of Slaves and Roman Law, in: *Fear of Slaves, Fear of Enslavement in the Ancient Mediterranean*. *Peur de l'esclave, peur de l'esclavage in Méditerranée ancienne ...*, Besançon 2007, 145-66, esp. 148-54. Gaius Iunius Silanus (consul in 10 C.E.) was the author of the law, cf. H. H. Sculland and B. M. Levick, *Iunius Silanus* (2), *Gaius*, ³OCD, 789.

who now seeks to crucify him. – On one side is the law, on the other the will: on both sides the cross.

*Lex Cornelia, te appello; ecce erus iubet quod tu vetas. ne quis illum displicuisse domino putet, tunc huic parari iussit crucem, cum sibi venenum. plura servi crimina confitemur: intempestivas potiones, inutiles cibos desideranti negavit. quid enim ille non voluit, qui venenum petivit? maluit crucem pati quam mereri. si vincitur, periturus est, si non vincitur, serviturus ei, a quo in crucem petitur. ex altera parte lex est, ex altera testamentum, crux utrimque.*¹⁶⁹

It is a curious and impossible dilemma, surely not historical. But crucifixion is present as the ever available penalty for slaves. In a controversy also used by Ps. Quintilian¹⁷⁰ a blind mother demands that her son be imprisoned, because he left her to go and ransom his father who had been captured by pirates. The rhetor Varius Geminus, arguing for the father, makes this plea, arguing that the father is more unhappy than the mother:

For *what* does he see? Signs of his captivity, slaughter, wounds, the crosses erected for the unransomed.

*quid enim videt? <notas> captivitatis suae et caedes et volnera et cruces eorum qui non redimuntur.*¹⁷¹

Bandits (or pirates) suffered crucifixion and in this text they apparently crucified their captives.¹⁷² Another rather repulsive *controversia* concerns the actions of a tyrant:

A tyrant gave permission to slaves to kill their masters and rape their mistresses. The chief men of the state fled; among them one who had a son and a daughter set off abroad. Though all the other slaves raped their mistresses, this man's slave kept the girl inviolate. When the tyrant had been killed, the chief men returned and crucified [raised to crosses] their slaves. But this man manumitted his slave, and gave him his daughter in marriage. His son accuses him of insanity.

*Tyrannus permisit servis dominis interemptis dominas suas rapere. Profugerunt principes civitatis; inter eos qui filium et filiam habebat profectus est peregre. Cum omnes servi dominas suas vitassent, servos eius virginem servavit. Occiso tyranno reversi sunt principes; in crucem servos sustulerunt; ille manu misit et filiam conlocavit. Accusatur a filio dementiae.*¹⁷³

Cestius Pius, speaking for the son argues:

He has made himself like the tyrant, his daughter like the women who were raped, his freedman like the slaves who were crucified. – The master has allowed his slave more licence than the tyrant did.

¹⁶⁹ Sen. Con. 3.9.1, trans. Winterbottom, Seneca the Elder, 1.419.

¹⁷⁰ § 2.9 below.

¹⁷¹ Sen. Con. 7.4.5, trans. of Winterbottom, Seneca the Elder, 2.93.

¹⁷² Chapt. 2 § 2.8, 2.13.

¹⁷³ Sen. Con. 7.6.pr., trans. of Winterbottom, Seneca the Elder, 2.119. Similar behavior may be found in V. Max. 9.1.ext.2 (note of Winterbottom).

*Fecit se similem tyranno, filiam raptis, libertum cruciariis. Plus servo dominus permisit quam tyrannus.*¹⁷⁴

Fulvius Sparsus claims,

Your son-in-law has deserved crucifixion just because of his marriage. An excellent son-in-law, whose main claim to fame is that he is not one of the crucified.

*Gener tuus ipsis nuptiis crucem meruit. Egregium generum, in quo nihil est gloriosius quam quod inter cruciarios non est!*¹⁷⁵

Fulvius Sparsus consequently ignores the slave's act of mercy. Julius Bassus continues this flow of debate,

Tell me, jail-bird: whom did you keep my sister virgin for? Say, if you will: "Myself." – "He did not violate her when he could have done." Does he deserve the match just because he doesn't deserve the cross?

*Dic, furcifer: cui sororem meam virginem servasti? Dic, si placet: "mihi." Non vitiavit, inquit, cum liceret illi. Itane iste nuptiis dignus est quia indignus est cruce?*¹⁷⁶

Bassus apparently concedes that the slave does not deserve crucifixion. Albucius Silus remarks,

What a fine son-in-law: his only boast is that he is more respectable – when compared with crucified slaves ... Do you regard as an insufficient proof of madness something that has brought a tyrant to death, fathers to exile [not to see marriages with slaves], slaves to the cross? ... If you want to discover your son-in-law's relatives, you must go to the cross.

*Egregius gener, cuius haec una gloria est, quod comparatus cruciariis frugalior est. ... Parum putatis magnum argumentum dementiae quod egit tyrannum in mortem, patres in exilium, servos in crucem? ... Si voles invenire generi tui propinquos, ad crucem eundum est.*¹⁷⁷

Silus's jibe about the freedman's relatives is reminiscent of a similar piece of gallows humor in Plautus.¹⁷⁸ Porcius Latro attacks the slave with the same argument,

He summons the slave, and because he had not hitherto deserved crucifixion, orders him to deserve it now. ... This, of course, was the service he performed: he saved his mistress from rape, and himself from the cross.

*Vocat servum et, quia crucem non meruerat, mereri iubet ... Ita sine dubio beneficium dedit, quod custodit dominam a stupro, se a cruce.*¹⁷⁹

The master's son clearly believes the freedman now deserves crucifixion, presumably because he does not believe a freedman (*libertus*) should marry a

¹⁷⁴ Sen. Con. 7.6.2, trans. of Winterbottom, Seneca the Elder, 2.121.

¹⁷⁵ Sen. Con. 7.6.3, trans. of Winterbottom, Seneca the Elder, 2.121.

¹⁷⁶ Sen. Con. 7.6.4, trans. of Winterbottom, Seneca the Elder, 2.123.

¹⁷⁷ Sen. Con. 7.6.6, trans. of Winterbottom, Seneca the Elder, 2.125.

¹⁷⁸ Pl. Mil. 372-3 in § 1.2 above.

¹⁷⁹ Sen. Con. 7.6.9, trans. of Winterbottom, Seneca the Elder, 2.129.

free born woman (*ingenua*). Freedmen and freedwomen were occasionally crucified by the Romans.¹⁸⁰ Triarius, after Latro's remark that the slave would be happier if he did not now violate the daughter, responds,

Well, doesn't this count as a reward – to be the sole spectator of the crucifixion of all?

*Age, hoc non est praemium, unum spectare omnium cruces?*¹⁸¹

Marullius argues for the son's position:

Now I shall find out whether you deserve your freedom – by seeing if you do not deserve crucifixion now you are free.

*Nunc sciam, an merito libertatem acceperis, si liber non merueris crucem.*¹⁸²

Again it is clear that the son desires the freedman's crucifixion. Asinius Pollio uses the lewd jesting at weddings to make his point:

Amid the licentious jesting of the wedding, they made jokes about the crucifixion of our son-in-law...

*Inter nuptiales fescenninos in crucem generi nostri iocabantur.*¹⁸³

Crucifixion becomes a joke in the case of slaves as it often is in Plautus. Speaking for the defense of the father, Albucius Silus responds:

He saved his mistress. If anyone had informed on him to the tyrant, he would have been suspended alone on a cross.

*Servavit dominam. Si quis tyranno indicasset, solus in cruce pependisset.*¹⁸⁴

Silus clearly means that the tyrant would have crucified the disobedient slave. Latro defends the slave. He notes, in the *divisio*, "Finally their rapists were fixed [to crosses], hers was manumitted" (*denique illarum stupratores suffixi sunt, huius manu missus est*).¹⁸⁵ The narrator remarks,

He [the slave] could see that the final stage of the tyranny was approaching, since it had reached its highest pitch of madness – something that happens only as a result of desperation. "So when he saw slaves being crucified, he shouted. 'I knew it would happen.'" At the end of his speech, Latro said, "I can find fault with you in the name of the slave too – you made him wicked when he had been good."

et adventare iam tempus ultimum tyrannidi videbatur, cum ad summam perducta <esset> rabiem, quae numquam nisi ex desperatione fit. Itaque cum videret, inquit, suffigi cruci

¹⁸⁰ Cf. chapt. 2 § 3.2.1, 3.3.1, 3.8.2. Such marriages are rarely attested in the Republic according to R. G. Lewis, *Inscriptions of Amiternum and Catilina's Last Stand*, ZPE 74 (1988) 31-42, esp. 35.

¹⁸¹ Sen. Con. 7.6.10, trans. of Winterbottom, Seneca the Elder, 2.129.

¹⁸² Sen. Con. 7.6.11, trans. of Winterbottom, Seneca the Elder, 2.131.

¹⁸³ Sen. Con. 7.6.12, trans. of Winterbottom, Seneca the Elder, 2.133. Winterbottom mentions the "Fescennine jesting" of Catul. 61.120.

¹⁸⁴ Sen. Con. 7.6.12, my trans.

¹⁸⁵ Sen. Con. 7.6.13, my trans.

*servos, clamabat: hoc ego futurum sciebam. In ultima oratione Latro dixit: servi quoque nomine tecum queri possum, qui eum qui frugi fuerat nequam fecisti.*¹⁸⁶

What is apparent from this horrifying tale (or rather fictional case) is that crucifixion was a natural penalty for slaves.

Another of the *controversiae* of Seneca is equivalent to one found later in Quintilian.¹⁸⁷ A father and son sought a position in command and the son got it.

He [the son] went to war with the enemy, and was captured. Ten ambassadors were dispatched to ransom the general. The father met them with some gold on their way. He said that his son had been crucified and that he had arrived with the gold too late to ransom him. They got there to find the general on the cross. He said to them: "Beware treachery." The father is accused of treachery.

*Pater et filius imperium petierunt; praelatus est patri filius. Bellum commisit cum hoste; captus est. Missi sunt decem legati ad redimendum imperatorem. Euntibus illis occurrit pater cum auro; dixit filium suum crucifixum esse et sero se aurum ad redemptionem tulisse. Illi pervenerunt ad crucifixum imperatorem; quibus ille dixit: 'cavete proditorem.' Accusatur pater proditionis.*¹⁸⁸

The son's speech on the cross clearly indicates that he was not impaled, which was apparently rare in Rome. Junius Gallio, arguing against the father, says,

I know well the danger I run in offending him. For how will he revenge himself for the accusation? By the cross. ... Excellent youth, excellent general, who did not stop caring for his country even on the cross! – your son did not think *you* worthy to be told: "Beware treachery."

*Intellego quanto istum periculo offendam. Quemadmodum enim iste accusationem vindicabit? cruce. ... Optimus adulescens, optimus imperator, qui rei publicae curam agere ne in cruce quidem desiit! Dignum te non putavit filius cui diceret: "cave proditorem."*¹⁸⁹

The use of the imagery of crucifixion in this narrative implies that it is the same procedure in the other texts of the elder Seneca since the language is the same. In other words, he understands death by crucifixion to be prolonged (and not impalement). Arellius Fuscus, speaking for the father, says,

Did I receive for the sale of a general and <my consent to> a parricide the price I, as a father, ask for seeing my son on the cross – and for my son seeing his father from the cross?

*Quantum est pretium quo vendo ut filium pater spectem in cruce, filius patrem de cruce, tanti et imperatorem et parricidium vendidi?*¹⁹⁰

Presumably the father expects his question to be answered in the negative. The emphasis on what the son could see while enduring crucifixion illustrates

¹⁸⁶ Sen. Con. 7.6.14, trans. of Winterbottom, Seneca the Elder, 2.135.

¹⁸⁷ § 2.7 below.

¹⁸⁸ Sen. Con. 7.7.pr., trans. of Winterbottom, Seneca the Elder, 2.145.

¹⁸⁹ Sen. Con. 7.7.5, trans. of Winterbottom, Seneca the Elder, 2.149-51.

¹⁹⁰ Sen. Con. 7.7.9, trans. of Winterbottom, Seneca the Elder, 2.153.

the extended nature of the penalty in Seneca's conception. Arellius Fuscus also said,

... his mind had already been disordered by his crucifixion [punishment]. He had poured out these words in his delirium with no proof, no individual accusation.

*Fuscus Arellius dixit alienatum iam supplicii animum et errantem has voces effudisse sine argumentis, sine reo.*¹⁹¹

One thing is clear about this story: the son is dying in agony on his cross in the understanding of the rhetors.

The rhetors argue in another controversy over whether a suicide should be buried, since in general homicides receive no burial. One of the arguments for the individual who committed suicide is:

Nature gives everyone a burial; the same wave that ejected the shipwrecked from their vessel covers them over; the bodies of the crucified flow down from their crosses into their graves; those who are burned alive are given funeral by their punishment.

*omnibus natura sepulturam dedit: naufragos idem fluctus, qui expulit, <sepelit;> suffixorum corpora <a> crucibus in sepulturam suam defluunt; eos, qui vivi uruntur, poena funerat.*¹⁹²

In this image, certain crucified individuals receive no burial.¹⁹³ In another *controversia*, an old man, a captive from Olynthis, is bought by the painter Parrhasius who tortures him to death as he paints Prometheus.¹⁹⁴ The tortures include fires, floggings and rackings (*ignes, verbera, tormenta*).¹⁹⁵ Arellius Fuscus Senior, arguing against Parrhasius, says,

Paint Prometheus – but paint him creating man, paint him distributing fire; paint him, but amid his gifts rather than amid his agonies. – Among the altars he has placed the cross of an old Olynthian. – Most pitiable old man, perhaps one of your own serfs has a more fortunate serfdom: at last any slave of a Macedonian is more fortunate.

Pinge Promethea, sed homines facientem, sed ignis dividentem; pinge, sed inter munera potius quam inter tormenta. Inter altaria Olynthi senis crucem posuit. Miserrime senex,

¹⁹¹ Sen. Con. 7.7.18, trans. of Winterbottom, Seneca the Elder, 2.163.

¹⁹² Sen. Con. 8.4.1, trans. of Winterbottom, Seneca the Elder, 2.195.

¹⁹³ Cf. Cook, Crucifixion and Burial.

¹⁹⁴ Sen. Con. 10.5.pr. Winterbottom, Seneca the Elder, 2.448 notes that this is “sheer fiction” since the painter was not alive in 348. The painter is admired by Latin authors who do not tell this tale (Cic. Tusc. 1.4, Col. 1.pr.31, Fro. Ant. 1.1 (BiTeu 133.8 van den Hout), Hor. Carm. 4.8.6, Iuv. 8.102, Quint. Inst. 12.10.4). Cp. E. Gunderson, *Declamation, Paternity, and Roman Identity. Authority and the Rhetorical Self*, Cambridge 2003, 92 (from whom I take these references). Isocrates Antid. (15) 2 admires him by pairing the painter with Zeuxis. Plutarch Glor. Ath. 2 (346A) also admires the painter. On Prometheus's cross see chapt. 3 § 2.8.

¹⁹⁵ Sen. Con. 10.5.6, trans. of Winterbottom, Seneca the Elder, 2.455.

*aliquis fortassis ex servis tuis felicius servit; utique felicior est quisquis Macedoni servit.*¹⁹⁶

Roman crucifixions were preceded occasionally by torture by fire and often by scourging.¹⁹⁷ The rhetor emphasizes the lengthy agony of crucifixion.

1.15 Vitruvius Pollio (military engineer of Caesar)

The writer of the treatise *On Architecture* includes a story about the Homeric critic Zoilus who was a Cynic philosopher and who was known as the “scourge of Homer” (Ὀμερομάστιξ) because of his criticism of the poet.¹⁹⁸ According to Vitruvius, he did not find favor with Ptolemy Philadelphus, who admired Homer.

And, in short, his death when he was condemned as a parricide is variously remembered. For some wrote that he was fixed to a cross by Philadelphus, some that he was stoned on Chios, others that in Smyrna he was thrown alive on a [funeral] pyre.

*et ad summam mors eius ut parricidii damnati varie memoratur. alii enim scripserunt a Philadelpho esse in crucem fixum, nonnulli Chii lapides esse coniectos, alii Zmyrnae vivum in pyram coniectum.*¹⁹⁹

The language is normal crucifixion usage (“fixed” or “nailed”), and explicit impalement is extremely rare in Roman texts.

2 From Caesar’s Assassination to Constantine

2.1 Publius Ovidius Naso (43 B.C. - 17 C.E.)

Ovid published his *Amores* during his exile in Tomis sometime after 16 C.E. In one of the poems the narrator refers to the waxed wooden tables which brought back the message that the lover in the poems, Corinna, could not meet him that day. He curses the wood from which the tablets were carved:

That tree provided hanging for a wretched neck, it provided the executioner with abominable crosses.

*praebuit illa arbor misero suspendia collo,
carnifici diras praebuit illa cruces;*²⁰⁰

Suicide is the reference of the first part of the text, because hanging by a noose was not a Roman capital penalty.²⁰¹ Ovid associates crucifixion with

¹⁹⁶ Sen. Con. 10.5.7, trans. of Winterbottom, Seneca the Elder, 2.455.

¹⁹⁷ Cf. chapt. 5 § 1.4.3-4 and chapt. 6 § 1.2.

¹⁹⁸ A. Momigliano, Zoilus, ³OCD, 1639.

¹⁹⁹ Vit. 7.pr.9.

²⁰⁰ Ov. Am. 1.12.17-8. The dates are from S. E. Hinds, Ovid, ³OCD, 1084-87.

²⁰¹ Cf. intro. § 1 and OLD s.v. *suspendium*: “The act of hanging oneself.”

hanging in one of his *Epistles from Pontus*, the first three books of which were put together in 13 C.E. He describes hope in a text that mentions the fate of the crucified:

It is said that those who are confined in prison hope for freedom and that one who hangs on a cross makes vows (prayers). How many who were binding their necks with a noose did that goddess not allow to perish by the death they had intended.

*Carcere dicuntur clausi sperare salutem
atque aliquis pendens in cruce uota facit.
Haec dea quam multos laqueo sua colla ligantis
non est proposita passa perire nece.*²⁰²

Here it is apparent that some at least must have contemplated surviving crucifixion and that impalement is not what the word *crux* normally brought to a Roman's mind.²⁰³ Ovid's concept of crucifixion, in other words, excludes impalement.

2.2 Gaius Iulius Phaedrus (ca 15 B.C.E. – 50 C.E.)

Phaedrus, the freedman of Augustus, born in Thrace, composed five books of fables. In one of his stories an impudent (*petulans*) man throws a stone at Aesop who gives him a penny and then tells him he has no more. He counsels him to throw a stone at a rich man:

"There comes a rich and powerful man; throw a stone likewise at this man and you will receive your due reward." He, being persuaded, did what was recommended. But hope failed his impudent audacity: for being seized he suffered punishment by crucifixion.

*"Venit ecce dives et potens: huic similiter
Impinge lapidem et dignum accipies praemium".
Persuasus ille fecit quod monitus fuit;
Sed spes fefellit impudentem audaciam:
Comprensus namque poenas persolvit cruce.*²⁰⁴

Presumably the condemned man is pictured as a bandit in the fable. Phaedrus has a shortened version of the tale of the matron of Ephesus. The criminals have robbed Jove's temple. A woman loses her beloved husband and mourns continually at his tomb.

Meanwhile, some individuals who robbed the temple of Jove were fixed to a cross and suffered their punishment in expiation to the divinity. So that no one could remove their remains soldiers were set as guards of the corpses next to the tomb in which the woman had enclosed herself.

Interea fanum qui compilarant Iovis,

²⁰² Ov. Pont. 1.6.37-40. Cp. Anthologia Latina 415 in § 3.7 below.

²⁰³ Josephus mentions several individuals who survived temporary crucifixion. Cf. chapt. 2 § 3.8.6.

²⁰⁴ Phaed. 3.5.6-10. Cp. Aesop in chapt. 3 § 1.1.

*Cruci suffixi luerunt poenas numini.
 Horum reliquias ne quis posset tollere,
 Custodes dantur milites cadaverum
 Monumentum iuxta mulier quo se incluserat.*²⁰⁵

Phaedrus visualizes crucifixion as an appropriate penalty for temple robbery. *Suffixi* implies the use of nails or something similar. Temple robbery would be an example of the general category sacrilege which appears in the *Digest*. Sacrilege could be punished by crucifixion.²⁰⁶ The soldier seduces the beautiful widow.

While here the diligent guard spent the nights, a body went missing from a cross. Disturbed, the soldier told the woman about the matter. But the virtuous woman said, “You have nothing to fear.” She gave him the corpse of her husband to be fixed [or nailed] to the cross, lest he suffer the punishment for negligence.

*Hic dum consumit noctes custos diligens,
 Desideratum est corpus ex una cruce.
 Turbatus miles factum exponit mulieri.
 At sancta mulier: “Non est quod timeas”, ait,
 Virique corpus tradit figendum cruci,
 Ne subeat ille poenas neglegentiae.*²⁰⁷

Clearly there is no mention of the parents taking their son’s body from the cross as there is in Petronius’s version of the tale. The fable does reflect the reality that some crucified bodies were not buried.

2.3 Lucius Annaeus Seneca (born between 4 B.C.E. and 1 C.E. – 65)

The elder Seneca’s son became a famous Stoic philosopher and advisor to Nero who forced him to commit suicide in 65 for allegedly taking part in the conspiracy of Calpurnius Piso. His *Dialogues* and *Letters* contain a number of useful images of crucifixion. In his *On Providence*, dedicated to his friend Lucilius, Seneca interprets the fate of Marcus Atilius Regulus at the hands of the Carthaginians as crucifixion and compares it with Maecenas. Regulus was the legendary hero of Rome who had counseled the Senate not to make peace with Carthage.²⁰⁸ The Carthaginians had captured him during the first Punic War and sent him to Rome to negotiate peace or a prisoner exchange. There is little agreement in Roman sources about how Regulus died, and Seneca’s claim that he was crucified is 170 years later than that of Sempronius

²⁰⁵ Phaed. Appendix Perottina 15.6-10 (Phaedri Augusti Liberti Liber Fabularum, ed. A. Guaglianone, Turin 1969, 101-2).

²⁰⁶ Cf. chapt. 5 § 1.5. Ulpian 7 De officio procons. in Dig. 48.13.7.

²⁰⁷ Phaed. Appendix Perottina 15.25-30.

²⁰⁸ A. Drummond, Atilius Regulus, Marcus, ³OCD, 207 (who argues that Regulus probably died in captivity, “probably of natural causes”). Cf. the references in Hengel, Crucifixion, 64-6.

Tuditanus who was consul in 129 B.C.E. Sempronius writes that the Carthaginians gave him slow acting poison and that when he returned to Carthage he was deprived of sleep and so was executed.²⁰⁹ Cicero (Pis. 43) mentions the instrument of torture (*machina*) that killed Regulus by sleeplessness. Valerius Maximus who lived during Tiberius's reign also depicts his death by sleeplessness (by use of the *machina*).²¹⁰ Appian (I–II C.E.) similarly describes the instrument of torture, a cage built with sharp spikes (καθηρόξαντες ἐν γαλεάγρα κέντρα πάντοθεν ἐχούση διέφθειραν).²¹¹ The story occurs in this form in the anonymous author (Ps. Aurelius Victor) of *De viris illustribus* in the late empire (probably V C.E.).²¹² Some traditions, much later than Sempronius Tuditanus and beginning apparently with Seneca, claim he was crucified.²¹³

What injury did Fortune do to him because she made him a pattern of loyalty, a pattern of endurance? Nails pierce his skin, and wherever he rests his wearied body he lies upon a wound; his eyes are stark in eternal sleeplessness. But the greater his torture is, the greater shall be his glory ... Do you, then, think Maecenas a happier man, who distressed by love and grieving over the daily repulses of his wayward wife, courted slumber by means of harmonious music, echoing faintly from a distance? Although he drugs himself with wine, and diverts his worried mind with the sound of rippling waters, and beguiles it with a thousand pleasures, yet he, upon his bed of down, will no more close his eyes than that other upon his cross.

*quid illi fortuna nocuit quod illum documentum fidei, documentum patientiae fecit? Figunt cutem clavi et quocumque fatigatum corpus reclinauit, uulneri incumbit; in perpetuam uigiliam suspensa sunt lumina: quanto plus tormenti tanto plus erit gloriae. ... Feliciorem ergo tu Maecenatem putas, cui amoribus anxio et morosae uxoris cotidiana repudia deflenti somnus per symphonicarum cantum ex longinquo lene resonantium quaeritur? Mero se licet sopiat et aquarum fragoribus auocet et mille uoluptatibus mentem anxiam fallat, tam uigilabit in pluma quam ille in cruce;*²¹⁴

In this text Seneca conceives of crucifixion as an extended process in which the victim is nailed to the cross (and not impalement for which he used the

²⁰⁹ C. Sempronius Tuditanus (consul 129 B.C.E.), frag. 5 (²HRF I, 145,1-11 Peter) = Gel. 7.4.1. Peter gives numerous references in his apparatus.

²¹⁰ Valerius Maximus 9.2 ext. 1.

²¹¹ Appian Libyca 4/15 (I, 188,14-5 Vier./Roos).

²¹² [Aurelius Victor] *De vir. ill.* 40.4 accepts the tradition of death by the instrument of torture (*in arcam ligneam coniectus clavis introrsum adactis uigiliis ac dolore punitus est*) as does Aug. Civ. 1.15.

²¹³ Seneca (died in 65 C.E.), Dial. 1.3.9-10, Ep. 98.12, Sil. Punica 2.339-44 (ca 26-102 C.E.). A Roman soldier (Marus) recounts another version, presumably of Regulus's death, in Sil. Punica 6.539-544 (the instrument that kept him sleepless). Florus (era of Hadrian), Epit. 1.18 (olim 2.2.24-25) describes the death as one of crucifixion. I doubt that the man depicted on the *patibulum* in the Arieti tomb is Regulus. Cf. Cook, John 19:17 and the Man on the *Patibulum* in the Arieti Tomb, 434-5 and figures 1-2 below.

²¹⁴ Sen. Dial. 1.3.9-10, trans. of Seneca, Moral Essays, vol. 1-3, LCL, ed. and trans. J. W. Basore, Cambridge, MA/London 1928-35, 1.21.

word *stipes*). As one of the manifestations of anger, he mentions the fate of certain leaders:

Behold all the leaders who have been handed down to posterity as instances of an evil fate – anger stabbed this one in his bed, struck down this one amid the sanctities of the feast, tore this one to pieces in the very home of the law and in full view of the crowded forum, forced this one to have his blood spilled by the murderous act of his son, another to have his royal throat cut by the hand of a slave, another to have his limbs stretched upon the cross.

*Aspice tot memoriae proditos duces mali exempla fati: alium ira in cubili suo confodit, alium intra sacra mensae iura percussit, alium intra leges celebrisque spectaculum fori lancinavit, alium filii parricidio dare sanguinem iussit, alium seruili manu regalem aperire iugulum, alium in cruce membra diffindere.*²¹⁵

Since Seneca mentions the stretched out members, it is likely that the cross in this instance has a horizontal beam. Seneca sees no useful purpose for anger:

To the end that no one may be deceived into supposing that at any time, in any place, it will be profitable, the unbridled and frenzied madness of anger must be exposed, and there must be restored to it the trappings that are its very own – the torture horse, the cord,²¹⁶ the jail, the cross, and fires encircling living bodies implanted in the ground,²¹⁷ the drag-hook that seizes even corpses, and the different kinds of chains and the different kinds of punishment, the rending of limbs, the branding of foreheads, the dens of frightful beasts, – in the midst of these her implements let anger be placed, while she hisses forth her dread and hideous sounds, a creature more loathsome even than all the instruments through which she vents her rage.

*Ne quem fallat tamquam aliquo tempore, aliquo loco profutura, ostendenda est rabies eius effrenata et attonita apparatusque illi reddendus est suus, eculei et fidiculae et ergastula et cruces et circumdati defossis corporibus ignes et cadauera quoque trahens uncus, uaria uinculorum genera, uaria poenarum, lacerationes membrorum, inscriptiones frontis et bestiarum immanium caeuae: inter haec instrumenta conlocetur ira dirum quiddam atque horridum stridens, omnibus per quae furit taetrior.*²¹⁸

Crucifixion for Seneca is an example of the horrors human beings can inflict upon one another. His *To Marcia On Consolation* attempts to comfort Marcia for the death of a beloved son, Metilius. He insists on the freedom from suffering that death brings, and makes this dubious attempt at consolation:

I see crosses there, not just of one kind but made differently by different individuals: some individuals suspended their victims with heads inverted toward the ground; some drove a stake (*stipes*) through their excretory organs/genitals; others stretched out their arms on a *patibulum*; I see racks, I see scourges, and separate instruments for separate members and joints, and I see death.

²¹⁵ Sen. Dial. 3.2.2, trans. of Basore, Seneca, 1.111.

²¹⁶ The OLD s.v. has “an instrument of torture, a kind of rack.”

²¹⁷ Cp. the similar fate of the soldier, Gallus, who had refused to become a professional gladiator in Cic. Fam. 10.32.3.

²¹⁸ Sen. Dial. 5.3.6, trans. Basore, Seneca, 1.261.

*Video istic cruces ne unius quidem generis sed aliter ab aliis fabricatas: capite quidam conuersos in terram suspendere, alii per obscena stipitem egerunt, alii brachia patibulo explicuerunt; uideo fidiculas, uideo uerbera, et membris singulis articulis singula docuerunt*²¹⁹ *machinamenta: sed uideo et mortem.*²²⁰

Seneca probably uses *patibulum* for the horizontal part of the cross, given the word's usage in classical Latin. It is possible that this is a "part for whole" (*pars pro toto*) usage in which *patibulum* stands for the entire structure (horizontal and vertical).²²¹ In any case, for Seneca, *patibulum* is an element of *crux*. He does include impalement in his concept of *crux* by using the term *stipes*, something which Samuelsson has written must be distinguished from the modern conception of crucifixion.²²² However, the mention of *stipes* (stake) shows that *crux* itself is not the specific word Seneca uses for the object that impaled individuals. In one of his letters Seneca makes a clear distinction between *crux* and the *stipes* used for impalement.²²³

In the letter to Lucilius, Seneca pictures crucifixion as part of the Roman spectacle (*pompa*) of evil. It is an example of the violence of the stronger, which is different from lesser kinds of evil such as poverty and illness²²⁴.

The other kind of evil comes in the form of a huge parade. Surrounding it is a retinue of swords and fire and chains and a mob of beasts to be let loose upon the disembowelled entrails of men. Picture to yourself under this head the prison, the cross, the rack [torture horse], the hook, and the stake which they drive straight through a man until it protrudes from his throat. Think of human limbs torn apart by chariots driven in opposite directions, of the terrible shirt smeared and interwoven with flammable materials, and of all the other contrivances devised by cruelty, in addition to those which I have mentioned!

ingens alterius mali pompa est; ferrum circa se et ignes habet et catenas et turbam ferarum quam in viscera immittat humana. Cogita hoc loco carcerem et cruces et eculeos et uncum et adactum per medium hominem qui per os emerget stipitem et distracta in di-

²¹⁹ C. E. Manning (On Seneca's "Ad Marciam," Leiden 1981, 114) notes that "it is impossible to arrive at a satisfactory meaning for *docuerunt*." Muretus's suggestion of a "complete deletion" is attractive. "*nocuerunt* [harmed] with *machinamenta* as subject, as envisaged Madvig and Gertz, is plausible." In addition *membris* (Waltz's suggestion) may be a gloss on *articulis*. Cp. Ep. 24.14 *singulis articulis singula machinamenta ... aptata* (separate instruments prepared for separate joints).

²²⁰ Sen. Dial. 6.20.3 (my trans.). Cp. the emendations of the Budé ed. (Sen. Dial. vol. III [CUFr, 41 Waltz]): *singulis articulis singula textuerunt machinamenta* (they have constructed separate instruments for separate joints). The text is from the Codex Ambrosianus. Cp. L. Schumacher, *Sklaverei in der antike. Alltag und Schicksal der Unfreien*, Munich 2001, 287-91 on crucifixion as the normal form of execution for slaves.

²²¹ Cf. the introduction (§ 3.1-2) on this question.

²²² Cf. Samuelsson, *Crucifixion in Antiquity*, 19, 143, 262 (and 261-70).

²²³ Cf. Sen. Ep. 14.5 below and intro. § 3.1.1, 3.4.

²²⁴ Sen. Ep. 14.3.

*versum actis curribus membra, illam tunicam alimentis ignium et inlitam et textam, et quidquid aliud praeter haec commenta saevitia est.*²²⁵

In this text Seneca manifestly distinguishes between crucifixion and impalement – using *crux* for execution by suspension and *stipes* for impalement. In Roman texts, the hook is inserted into corpses to drag them through the streets.²²⁶ No Roman literary or epigraphical text uses a construction such as *per obscena crux* (a *crux* through the genital/excretory organs) or *per os emergeret crux* (a *crux* protrudes from the throat).

In his treatise *On the Happy Life*, dedicated to his brother Gallio, Seneca defends philosophy against those who scoff at it, particularly the Stoic ideal of virtue. He uses crucifixion in an image of those who attempt to free themselves from their faults:

Though they strive to release themselves from their crosses – those crosses to which each one of you nails himself with his own hand – yet they, when brought to punishment, hang each upon a single gibbet [*stipitibus*]; but these others who bring upon themselves their own punishment are stretched upon as many crosses as they had desires. Yet they are slanderous and witty in heaping insult on others. I might believe that they were free to do so, did not some of them spit upon spectators from their own cross [*patibulum* horizontal bar]!

*Cum refigere se crucibus conentur – in quas unusquisque uestrum clauos suos ipse adigit – ad supplicium tamen acti stipitibus singulis pendunt: hi qui in se ipsi animum aduertunt quot cupiditatibus tot crucibus distrahantur. At maledici, in alienam contumeliam uenusti sunt. Crederem illis hoc uacare, nisi quidam ex patibulo suo spectatores conspuerent.*²²⁷

²²⁵ Sen. Ep. 14.5, trans. of Seneca, *Ad Lucilium, Epistulae morales*, vols. 1-3, LCL, ed. and trans. R. M. Gummere, Cambridge, MA/London 1925, 1.85-7. Lipsius, *De cruce*, 12 provides an image of this impalement. See also intro. § 1.

²²⁶ As in Sen. Dial. 5.3.6 and Cic. Phil. 1.5 (*uncus impactus est fugitivo illi* [the hook was fixed to that escaped slave ...]). Cp. Sen. Ep. 82,3 92.35, Iuv. 10.65 (Sejanus), Sen. Con. 9.2.2 *Reliquiae praetoris unco trahebantur* [the remains, left by the praetor, were dragged by the hook], Cic. Rab. Perd. 16, Suet. Tib. 61.4 *nemo punitorum non in Gemonias abiectus uncoque tractus* (none of those punished was not thrown down the Germonian stairs and dragged [to the Tiber] by the hook), Suet. Vit. 17.2 *tandem apud Gemonias minutissimis ictibus excarnificatus atque confectus est et inde unco tractus in Tiberim* (finally on the Gemonian stairs he was tortured with small stabs and executed and from there he was dragged to the Tiber by the hook), and the *lex Puteolana* (chapt. 5 § 1.4.6). Suet. Tib. 75.1 has *Tiberium in Tiberim ... alii uncum et Gemonias cadaveri minarentur* (Tiberius to the Tiber ... others threatened the corpse with the hook and the Gemonian stairs), Plin. Pan. 33.3. J. T. Ramsey argues this was the normal result of the use of the hook (cf. Cicero, *Philippics I-II*, Cambridge 2003, 90-1). Cf. also A. Ehrhardt, *Tormenta*, PRE N.S. VIA (1937) 1775-94, esp. 1793-4 (the hook used in torture), Richardson, *Scalae Gemoniae*, New Topographical Dictionary, 345, Cook, *Envisioning Crucifixion*, 280 (the Gemonian stairs) and Y. Rivière, *Le cachot et les fers. Détention et coercion à Rome*, Paris 2004, 70-88 (Gemonian stairs).

²²⁷ Sen. Dial. 7.19.3, trans. of Basore, Seneca 2.149.

In Seneca's picture the crucified victims are able to spit on the spectators, so impalement is excluded. The image of releasing oneself from a cross (*refigere*) is also a clear indication that the victims are not impaled. In addition, the combination of *stipes* and *patibulum* as elements of the *crux* (vertical and horizontal respectively) is important in understanding the Roman technology of death.

In Seneca's treatise written to the young Nero (18 years of age), *On Clemency*, he compares the ancient penalty of the sack (*culleus*)²²⁸ for parricides with crucifixion in an interesting text:

You will notice, besides, that the sins repeatedly punished are the sins repeatedly committed. Your father within five years had more men sewed up in the sack than, by all accounts, there had been victims of the sack throughout all time. Children ventured much less often to incur the supreme sin so long as the crime lay outside the pale of the law. For by supreme wisdom the men of the highest distinction and of the deepest insight into the ways of nature chose rather to ignore the outrage as one incredible and passing the bounds of boldness, than by punishing it to the point out the possibility of its being done; and so the crime of parricide began with the law against it, and punishment showed children the way to the deed; filial piety was truly at its lowest ebb after the sack became a more common sight than the cross.

*Praeterea videbis ea saepe committi, quae saepe vindicantur. Pater tuus plures intra quinquennium culleo insuit, quam omnibus saeculis insutos accepimus. Multo minus audebant liberi nefas ultimum admittere, quam diu sine lege crimen fuit. Summa enim prudentia altissimi viri et rerum naturae peritissimi maluerunt velut incredibile scelus et ultra audaciam positum praeterire quam, dum vindicant, ostendere posse fieri; itaque parricidae cum lege coeperunt, et illis facinus poena monstravit; pessimo vero loco pietas fuit, postquam saepius culleos vidimus quam cruces.*²²⁹

It is tempting to conclude that in Seneca's experience the cross was a punishment more common in Nero's reign than it was during that of Claudius, but such a conclusion is unwise. It is probable instead that the sack was something he saw used more often during Claudius's imperium than during Nero's. The frequency of crucifixion during the time of Claudius and Nero could have been similar. He refers to the cross as the usual punishment for serious crimes of slaves.

The cruelty even of men in private station has been avenged by the hands of slaves despite their certain risk of crucifixion; nations and peoples have set to work to extirpate the cruelty of tyrants, when some were suffering from it and others felt its menace.

*Crudelitatem privatorum quoque serviles manus sub certo crucis periculo ultae sunt; tyrannorum gentes populique et, quorum erat malum, et ei, quibus imminabat, excindere aggressi sunt.*²³⁰

²²⁸ On this penalty, cf. Cook, *Roman Attitudes*, 78.

²²⁹ Sen. Cl. 1.23.1, trans. of Basore, Seneca, 2.421.

²³⁰ Sen. Cl. 1.26.1, trans. of Basore, Seneca, 2.425-7.

The *lex Puteolana* shows how simple the process was for having a slave crucified in Puteoli.²³¹

In a letter to Lucilius Seneca lists disasters others have overcome in an argument that good comprises wisdom and virtue:

Just say to yourself, "Of all these experiences that seem so frightful, none is insuperable. Separate trials have been overcome by many: fire by Mucius, crucifixion by Regulus, poison by Socrates, exile by Rutilius, and a sword-inflicted death by Cato; therefore, let us also overcome something."

*Dic tibi "ex istis quae terribilia videntur nihil est invictum." Singula vicere iam multi, ignem Mucius, crucem Regulus, venenum Socrates, exilium Rutilius, mortem ferro adactam Cato: et nos vincamus aliquid.*²³²

As I have remarked above Seneca is the earliest literary source to claim that Regulus was crucified.²³³

In another letter to Lucilius warning him to keep a constant watch for death, Seneca asserts that the fear of death causes many sorts of wretched things.²³⁴

Thence came that most debased of prayers, in which Maecenas does not refuse to suffer weakness, deformity, and as a climax the pain of crucifixion provided only that he may prolong the breath of life amid these sufferings:

Fashion me with a palsied hand,

Weak of foot, and a cripple;

Build upon me a crook-backed hump;

Shake my teeth till they rattle;

All is well, if my life remains.

Save, oh, save it, I pray you,

Though I sit on the piercing cross! [or "sharp cross"]

There he is, praying for that which, if it had befallen him, would be the most pitiable thing in the world! And seeking a postponement of suffering, as if he were asking for life! I should deem him most despicable had he wished to live up to the very time of crucifixion: "Nay," he cries, "you may weaken my body if you will only leave the breath of life in my battered and ineffective carcass!" "Maim me if you will, but allow me, misshapen and deformed as I may be, just a little more time in the world! You may nail me up and set my seat upon the piercing cross!"

Seneca depicts the death as one on a *patibulum*.

Is it of such value to press on one's own wound and hang stretched out on a *patibulum* [cross with horizontal bar],²³⁵ that he might put off what is the best in evil circumstances, the end of punishment? Is it of such value to have breath so that I may breathe my last?

²³¹ Chapt. 5 § 1.4.

²³² Sen. Ep. 98.12, trans. Gummere, Seneca, 3.125.

²³³ Cf. the discussion above of Dial. 1.3.9-10.

²³⁴ Sen. Ep. 101.1, 10.

²³⁵ Cf. intro. § 1 and § 3.1.

Inde illud Maecenatis turpissimum votum quo et debilitatem non recusat et deformitatem et novissime acutam crucem, dummodo inter haec mala spiritus prorogetur:

*debilem facito manu,
debilem pede coxo,
tuber adstrue gibberum,
lubricos quate dentes:
vita dum superest, benest;
hanc mihi, vel acuta
si sedeam cruce, sustine.*

*Quod miserrimum erat si incidisset optatur, et tamquam vita petitur supplicii mora. Contemptissimum putarem si vivere vellet usque ad crucem: "tu vero" inquit "me debiles licet, dum spiritus in corpore fracto et inutili maneat; depraves licet, dum monstroso et distorto temporis aliquid accedat; suffigas licet et acutam sessuro crucem subdas": est tanti vulnus suum premere et patibulo pendere districtum, dum differat id quod est in malis optimum, supplicii finem? est tanti habere animam ut agam?*²³⁶

Samuelsson interprets the *acuta ... cruce* as impalement, but the context is against this interpretation, because Maecenas in Seneca's understanding is not asking for immediate death but for the prolonging of his life, no matter how much the agony.²³⁷ The datives (*distorto ... sessuro*) refer to Maecenas, and one may translate: "you may apply a painful cross beneath for one who will sit." This is particularly clear from Maecenas's plea at the end of his poem: *sustine* (sustain [me]). The Puteoli graffito's depiction of a crucified person (probably Alcimilla) sitting on a peg, part of a painful cross, is probably what Seneca (and Maecenas) has in mind.²³⁸ The Palatine graffito also appears to depict the crucified donkey-man sitting on some kind of projection. This is confirmed further by Seneca's depiction of Maecenas stretched out (*districtum*) on a *patibulum*, the term for the horizontal member of the cross. *Patibulum* for him is an acceptable kind of *cruce*, and he used it in his interpretation of the poem of Maecenas. The point is that Maecenas is thereby putting off the end of his life, the end of his troubles. Seneca further develops his critique by a reference to Vergil's query *usque adeone mori miserum est?* (Is it

²³⁶ Sen. Ep. 101.10-12, trans. Gummere, Seneca, 3.165. The trans. of the last two questions is mine.

²³⁷ Samuelsson, Crucifixion 191. Cf. the Catalan translation of Maecenas's words (*acuta ... cruce*) as "creu torturant" (cross of torment) in Sèneca, Lletres a Lucili, vol. 4, ed. and trans. C. Cardó, Barcelona 1931, 24. Admittedly he translates the phrase in 101.12 (*suffigas licet et acutam sessuro crucem subdas*) as "encara que em calvessis i em fessis seure sobre un pal punxegut" (Although you nailed me and made me sit on a sharp stick). Because of the context a *sedile*, an element of the acutely painful cross, fits better than impalement.

²³⁸ See figures 5-7. Cp. Tert. Nat. 1.12.4 *Sed nobis tota crux imputatur, cum antemna scilicet sua et cum illo sedilis excessu* (but an entire cross is imputed to us, with its horizontal member and projecting peg). For *antemna*, the OLD s.v. has "A yard of a sailing-ship, sailyard, yard-arm."

so very miserable to die?).²³⁹ This remnant of a life is not impalement but the slow death of crucifixion:

He asks for the climax of suffering, and – what is still harder to bear – prolongation and extension of suffering; and what does he gain thereby? Merely the boon of a longer existence. But what sort of life is a lingering death? Can anyone be found who would prefer wasting away in pain, dying limb by limb, or letting out his life drop by drop, rather than expiring once for all? Can any man be found willing to be fastened to the accursed tree,²⁴⁰ long sickly, already deformed, swelling with ugly tumours on chest and shoulders, and draw the breath of life amid long-drawn-out agony? I think he would have many excuses for dying even before mounting the cross!

*Optat ultima malorum et quae pati gravissimum est extendi ac sustineri cupit: qua mercede? scilicet vitae longioris. Quod autem vivere est diu mori? Invenitur aliquis qui velit inter supplicia tabescere et perire membratim et totiens per stilicidia emittere animam quam semel exhalare? Invenitur qui velit adactus ad illud infelix lignum, iam debilis, iam praeus et in foedum scapularum ac pectoris tuber elisus, cui multae moriendi causae etiam citra crucem fuerant, trahere animam tot tormenta tracturam?*²⁴¹

This is one of the most vivid depictions of crucifixion in Roman literature. The slow death indicates that Maecenas, in Seneca's view, is asking for a longer life, not the quick death represented by impalement. It also shows that the blood flowed quite slowly and that consequently crucifixion was not an inherently bloody death.²⁴² Seneca, in a fragment preserved by Lactantius, pictures the "honorable person" (*homo honestus*) who can contemplate his death with equanimity:

This is that honorable man, not noteworthy because of a diadem or purple, or the attendance of lictors, but one who is in no way inferior, who when he sees death near, is not troubled as if he had seen something new; who whether his torments are to be suffered by his entire body, or whether flames are to be seized by his mouth, or whether his hands are to be stretched out on a *patibulum*, does not ask about what he suffers, but whether he suffers well.

*hic est ille homo honestus, non apice purpurae, non lictorum insignis ministerio, sed nulla re minor, qui cum mortem in uicinia uidit, non sic perturbatur tamquam rem nouam uiderit, qui siue toto corpore tormenta patienda sunt siue flamma ore rapienda est siue extendendae per patibulum manus, non quaerit quid patiat, sed quam bene.*²⁴³

Clearly the *patibulum* includes the horizontal member of the cross in this text, although Seneca may be using it for the entire cross (*pars pro toto*).²⁴⁴

²³⁹ Sen. Ep. 101.13, Verg. A. 12.646.

²⁴⁰ Hengel, Crucifixion, 7 compares this to the "criminal wood" (παναυργικὸν / ξύλον) in a magic recipe (PGM 5.73-4) and the *infami* ... *stipite* (infamous beam) of Anthologia Latina 415.23. L. Munoz Delgado, *Léxico de magia y religión en los papiros mágicos griegos*, Madrid 2001, s.v. λόγος (p. 80, col. 1) translates PGM as "wood from a *patibulum*."

²⁴¹ Sen. Ep. 101.13-14, trans. of Gummere, Seneca, 3.167.

²⁴² Cf. chapt. 4 § 3.7.

²⁴³ Seneca, fr. 124 (BiTeu 42, Haase) from Lact. Inst. 6.17.28.

²⁴⁴ Cf. the intro. § 3.1.1.

2.4 Appendix Vergiliana (era of Augustus to 100 C.E.)

In the collection of poems dedicated to the phallic god Priapus, there is a poem that may use *crux* metaphorically. A Priapus made of poplar wood with a phallus (a euphemism for the obscene word used by the poet) stands guard over a field, and the god threatens a thief with assault by the *vilicus* (a slave or freeman who was the overseer of a farm):

Therefore, O wayfarer, thou shalt fear this god, and hold thy hand high: this is worth thy while, for lo! there stands ready thy cross, the phallus. "By Pollux! I'd like to," thou sayest. Nay, by Pollux, here comes the bailiff [steward], whose stout arm, plucking away that phallus, finds in it a cudgel, well fitted to his right hand.

*proin, uiator, hunc deum uereberis
manumque sursum habebis: hoc tibi expedit,
parata namque crux stat ecce mentula.
'uelim pol' inquis? at pol ecce uilicus
uenit, ualente cui reuulsa brachio
fit ista mentula apta claua dexteræ.*²⁴⁵

Crux (supported by the manuscript tradition) was emended to *trux* (rough) by Isaac Vossius, a reading adopted in the revision of H. Rushton Fairclough's translation by G. P. Goold and in some other editions.²⁴⁶ The more difficult reading (*crux*) seems preferable and is adopted by R. W. Hooper, for example, in his translation of the *Priapeia*.²⁴⁷ The cross, instrument of crucifixion, is used to warn a thief in an obscene poem, but as a phallus of Priapus.

2.5 Valerius Maximus (reign of Tiberius, 14-37)

Valerius Maximus probably published his compendium after Sejanus's downfall in 31.²⁴⁸ Valerius, after a discussion of Roman military discipline, testifies to the general Roman perception of Carthaginian cruelty:

The conscript fathers were mild, if we wish to consider the violence of the Senate of the Carthaginians in managing military matters, who, when commanders conduct wars using bad counsel, even if a favorable fortune should ensue, nevertheless fasten them to crosses, because when they [the commanders] performed well, they [the Senate] attributed it to the

²⁴⁵ *Priapeia* (Appendix Vergiliana) 2.16-21 [BiTeu, *Poetae Latini Minores*, 1.128 E. Baehrens/F. Vollmer/W. Morel, Leipzig 1935]), trans. of Virgil, *Aeneid VII-XII. Minor Poems*, vol. 2, LCL, ed. and trans. H. R. Fairclough, Cambridge, MA/London 1918, 483.

²⁴⁶ Virgil, vol. 2, LCL, ed. and trans. H. R. Fairclough and G. P. Goold, Cambridge, MA/London 2000, 510. Cp. Appendix Vergiliana, SCBO, ed. J. A. Richmond et al., Oxford 1966, 132 and P. Vergili Maronis Opera, vol. 4, BiTeu, ed. O. Ribbeck, Leipzig 1868, 148.

²⁴⁷ R. W. Hooper, *The Priapus Poems. Erotic Epigrams from Ancient Rome*, Urbana/Chicago 1999, 107.

²⁴⁸ G. C. Whittick and B. M. Levick, *Valerius Maximus*, ³OCD, 1579, with reference to V. Max. 9.10.ext.4 (probably Sejanus). For Valerius's Roman examples of crucifixion, cf. chapt. 2 § 2.1.4, 2.3.2, 2.4, 2.8, and 2.12.

help of the immortal gods, and when they fought badly, they attributed it to their own failure.

*Leniter hoc patres conscripti, si Karthaginiensium senatus in militiae negotiis procurandis uiolentiam intueri uelimus, a quo duces bella prauo consilio gerentes, etiam si prospera fortuna subsecuta esset, cruci tamen suffigebantur, quod bene gesserant deorum immortalium adiutorio, quod male commiserant ipsorum culpa inputante.*²⁴⁹

His use of *crux* (with his emphasis on nailing or fastening – *suffigebantur*) and his own era (Tiberius) probably imply that he conceives of the act as crucifixion and not impalement. After describing the great courage of two Greek women, he retells the story of Theodorus the Cyrenaean as an example of “free speech” (*Libere dicta aut facta*). He was not afraid of crucifixion.

Between these and Theodorus the Cyrenaean there was able to be a union of courageous spirit – alike in virtue, but unlike in happiness; for when king Lysimachus was threatening him with death, he said, “Truly a magnificent thing has reached you, because you have acquired the virtue of a beetle.” And when, inflamed after this statement, he [the king] commanded that he be attached [nailed] to the cross, he said, “This cross is a frightful thing for officials (clothed in purple), as for my cross, it makes no difference whether I rot in the ground or in the air.”

*Inter has et Theodorum Cyrenaicum quasi animosi spiritus coniugium esse potuit, uirtute par, felicitate dissimile: is enim Lysimacho regi mortem sibi minitanti, “enimvero” inquit “magnifica res tibi contigit, quia cantharidis uim adsecutus es.” cumque hoc dicto accensus cruci eum suffigi iussisset, “terribilis” ait “haec sit purpuratis tuis, mea quidem nihil interest humi an sublime putrescam.”*²⁵⁰

The philosopher does not foresee a burial for himself in the case of crucifixion. Valerius tells the story of Polycrates of Samos in his discussion of fortune (*Fortunae*). The tyrant had lived a lucky life. When he lost a ring, a fisherman caught the fish who had eaten it and gave it back to Polycrates. His end was different.

But this was the man, whose happiness always was on a prosperous journey because of full winds, that Orontes, the prefect of king Darius, fixed [nailed] to a cross on the highest peak of mount Mycale. There Samos, long oppressed by bitter servitude, with rejoicing eyes, observed his decaying limbs and members dripping with putrefying blood and his decayed left hand, to which Neptune had restored a ring by the hand of a fisherman.

*sed hunc, cuius felicitas semper plenius uelis prosperum cursum tenuit, Orontes Darii regis praefectus in excelsissimo Mycalensis montis uertice cruci adfixit, e qua putres eius artus et tabido cruore manantia membra atque illam laeuam, cui Neptunus anulum piscatoris manu restituerat, situ marcidam Samos, amara seruitute aliquamdiu pressa, liberis ac laetis oculis aspexit.*²⁵¹

The crucified Polycrates receives no burial either.

²⁴⁹ V. Max. 2.7. ext.1.

²⁵⁰ V. Max. 6.2. ext. 3 = test. 9 (BiTeu 34,12-7 Winiarczyk).

²⁵¹ V. Max. 6.9. ext. 5. He precedes the narrative with the tale of the lost ring.

Brutus Damasippus, the urban praetor, put G. Papirius Carbo to death in Rome in 82 due to his association with Sulla.

Damasippus had nothing praiseworthy that one might falsify, therefore his memory is easily stained by unrestrained accusations. By his order the heads of the principal citizens were confounded with those of sacrificial victims and the headless trunk of Carbo Arvina was fixed to a *patibulum* and carried about. Either the praetorian office of this infamous man was so strong or the sovereign power of the state was so weak.

*Damasippus nihil laudis habuit, quod corrumperet, itaque memoria eius licentiore accusatione perstringitur. cuius iussu principum ciuitatis capita hostiarum capitibus permixta sunt Carbonisque Aruinae truncum corpus patibulo adfixum gestatum est. adeo aut flagitiosissimi hominis praetura multum aut rei publicae maiestas nihil potuit.*²⁵²

Velleius Paterculus depicts the murder as due to the initiative of Damasippus himself, but Appian writes that it was due to the orders of Marius.²⁵³ In this text *patibulum* is probably the simple horizontal bar that is mentioned in other authors who describe individuals carrying their *patibula* (horizontal bars) to their *cruces* (vertical posts).²⁵⁴ The image is one in which Carbo's lifeless arms are stretched out on the bar. It is not an impalement due to the use of the verb *adfixum* and the mention of *patibulum*.²⁵⁵

After describing the justice of the Senate in forcing Hannibal to commit suicide, Valerius continues with a reference to Mithridates in an event that happened in 88 B.C.E. as an example of his remarks on cruelty (*De crudelitate*):²⁵⁶

For, by Hercules, the Senate treated king Mithridates justly, who with one letter killed eighty thousand Roman citizens who were in the cities of Asia for the purpose of pursuing commerce, and in the entire province he stained the gods of hospitality with unjust, but not unavenged blood, because as his breathing resisted the poison, he was finally overcome in extreme pain and at the same time he atoned for those crosses, which he had inflicted on his friends at the instigation of Gaurus the eunuch; he was wanton in obsequiousness to him, and wicked in his rule.

Tam Hercule quam Mitridatem regem, qui una epistola octoginta milia ciuium Romanorum in Asia per urbes negotiandi gratia dispersa interemit tantaeque prouinciae hospitalis deos iniusto, sed non inulto cruore respersit, quoniam cum maximo cruciatu ueneno repugnantem spiritum suum tandem succumbere coegit simulque piacula crucibus illis

²⁵² V. Max. 9.2.3.

²⁵³ Vell. Pat. 2.26.2, Appian Bell. civ. 1.88/403-4 (II, 94,21-95,9 Mend./Vier. (he also affirms their bodies were thrown into the Tiber). Cf. R. Seager, Sulla, CAH², 165-207, esp. 192, E. Badian, Papirius Carbo Arvina, Gaius, OCD³, 1109, and E. Badian, Iunius Brutus Damasippus, Lucius, OCD³, 789.

²⁵⁴ Cf. intro. § 3.1.1.

²⁵⁵ Cf. intro. § 1.

²⁵⁶ On the event see the ref. to Appian in chapt. 2 § 2.6. Cassius Dio 30-5.101.1, 109.8, Plutarch Sull. 24.4 (150,000 massacred), Memnon apud Phot. Bibl. Cod. 224 (231a Bekker). Cic. pro I. Manil. 7, 11, Vell. Pat. 2.18.1-2, Tac. Ann. 4.14.2, Flor. Epit. 1.40 (3.5.7), Eutropius 5.5, Orosius 6.2.2.

*dedit, quibus [illos] amicos suos auctore Gauro spadone libidinosus obsequio, scelestus imperio adfecerat.*²⁵⁷

Mithridates may have adopted crucifixion practice from the Romans.

2.6 Pliny the Elder (23/24-79 C.E.)

The naturalist makes several references to crucifixion. In a discussion of lions he writes,

Polybius, the companion of Aemilianus, reports that in [the lions'] old age a person will be attacked by them, because they do not have sufficient strength to pursue wild animals; thus they besiege the cities of Africa, and for this reason he [Polybius] with Scipio saw them fixed to crosses, because others by fear of a similar punishment might be deterred from the same crimes.

*Polybius, Aemiliani comes, in senecta hominem ab his adpeti refert, quoniam ad persequendas feras vires non suppetant; tunc obsidere Africae urbes, eaque de causa cruci fixos vidisse se cum Scipione, quia ceteri metu poenae similis absterrentur eadem noxa.*²⁵⁸

Fixos (fixed, attached) implies the use of nails or fetters. This may actually be a sacrifice to Baal Hammon and Tanit.²⁵⁹ One of the few non-penal uses of *crux* occurs in a text about vines:

Indeed [vines] are everywhere higher than elms, and they say that Cineas, the legate of king Pyrrus, amazed at their height in Aricia, wittily made a joke about the very dry taste of the wine, saying that its mother justly hung on so high a cross.

*ulmos quidem ubique exu<p>erant, miratumque altitudinem earum Ariciae ferunt legatum regis Pyrrhi Cineam facete luisse in austeriorem gustum vini, merito matrem eius pendere in tam alta cruce.*²⁶⁰

Even here there is a reference to the “cross’s” use as a “penalty” for a wine’s ancestral vine that was apparently too dry for Cineas. In a discussion of hair, Pliny describes one use: [It is said] if we believe it, that a hair [*capillus*] of one torn from a cross is effective for quartan fevers, and a hair reduced to ashes is especially good for cancer (*si credimus, <e> revulso cruci quartanis, conustus utique capillus carcinomati*).²⁶¹ Pliny refers to a nail from a cross in another text:

²⁵⁷ Val. Max. 9.2. ext. 3.

²⁵⁸ Plin. Nat. 8.47.

²⁵⁹ Polybius, *The Histories*. Books 28-39, vol. 6, LCL, ed. and trans. W. R. Paton, rev. by F. W. Walbank and C. Habicht, fragments ed. and trans. by S. D. Olson, Cambridge, MA 2012, 379, n. 99.

²⁶⁰ Plin. Nat. 14.12.

²⁶¹ Plin. Nat. 28.41 (BiTeu Plinius IV, 290,5 Mayhoff). *e* is Mayhoff’s emendation for the *ac* of the MSS tradition.

Some people for quartan fevers bind a fragment of a nail from a cross, enclosed with a piece of wool, to the neck, or they use a rope from a cross; after he is released [from the bond], they place it in a cavern where the sun does not reach.

*iidem in quartanis fragmentum clavi a cruce involutum lana collo subnectunt aut spartum e cruce, liberatoque condunt caverna, quam sol non attingat.*²⁶²

In Pliny's concept of crucifixion, nails and a cross belong together. An example of such a nail is that which still remains in the calcaneum bone of Jehohanan ben Ḥaggol.²⁶³ Latin and Greek texts apparently attest to the venerable use of crucifixion nails in magic.²⁶⁴ Pliny's recipe against fever probably indicates that ropes could also be used to attach individuals to crosses.²⁶⁵ He tells a story of Tarquin that although technically not a crucifixion (because it is post-mortem) is nevertheless instructive. He describes the seven rivers that flow underneath Rome to carry away the sewage.

When Tarquinius Priscus built this work by the hands of the plebs, the labor was uncertain, both very great and long, everywhere the citizens were escaping the tedium by a death inflicted on themselves. The king devised a new remedy – unthought of before or since – for he fixed all the corpses of the dead to crosses to be viewed by the citizens and at the same time to be torn in pieces by wild beasts and birds [of prey].

*cum id opus Tarquinius Priscus plebis manibus faceret, essetque labor incertum maior an longior, passim conscita nece Quiritibus taedium fugientibus, novum, inexcogitatum ante posteaque remedium invenit ille rex, ut omnium ita defunctorum corpora figeret cruci spectanda civibus simul et feris volucrisque laceranda.*²⁶⁶

The post-mortem "crucifixions" in this tale reflect the practice of often leaving the bodies of the crucified unburied.

2.7 Marcus Fabius Quintilianus (born ca 35 C.E.)

Quintilian's *Training in Oratory* was probably published before Domitian's death (96).²⁶⁷ He makes use of references to crucifixion several times in his illustrations of oratorical practice. An example of *narratio* (statement of fact) is Cicero's mention of the crucifixion of a shepherd in the Verrines:

²⁶² Plin. Nat. 28.46, cp. Cook, *Envisioning Crucifixion*, 271-2.

²⁶³ Chapt. 2 § 3.4.4.

²⁶⁴ L. Fahr, *De poetarum Romanorum doctrina magica quaestiones selectae*, RVV II/3, Giessen 1904, 150. Cp. Luc. 6.547 (*insertum manibus chalybem*), Apul. Met. 3.17.5 (*carnosi clavi pendentium*), Lucian Philops. 17 (chapt. 3 § 2.10: δακτύλιον ὃ Ἄραψ ἔδωκε σιδήρου τοῦ ἐκ τῶν σταυρῶν πεποιημένον), Alexander Therapeutica Περὶ ἐπιληψίας (ἦλον ἐσταυρωμένον, I, 567 Puschmann). Crucifixion nails are also used for magic/healing in certain rabbinic texts (chapt. 4 § 3.8).

²⁶⁵ Cf. chapt. 6 § 1.2. It is possible that the nails and ropes were used to construct the cross. Cf. § 2.10 below.

²⁶⁶ Plin. Nat. 36.107.

²⁶⁷ R. G. Austin and M. Winterbottom, *Quintilian (Marcus Fabius Quintilianus)*, ³OCD, 1290.

There are also statements which do not set forth the facts of the case itself, but facts which are none the less relevant to the case: the speaker's purpose may be to illustrate the case by some parallel as in the passage in the Verrines about Lucius Domitius who crucified a shepherd because he admitted that he had used a hunting spear to kill the boar which he had brought him as a present ...

*Illae quoque sunt pertinentes ad causam sed non ipsius causae narrationes, uel exempli gratia, ut in Verrem de L. Domitio, qui pastorem, quod is aprum, quem ipsi muneri optulerat, exceptum esse a se uenabulo confessus esset, in crucem sustulit ...*²⁶⁸

The shepherd was crucified because as a slave he had disobeyed a command that the praetor had issued to prevent brigandage after the second slave revolt in Sicily.²⁶⁹ In a discussion of perorations Quintilian mentions many texts similar to that part of the oration in the Verrines "where he laments over Philodamus, the ships' captains, the crucifixion of the Roman citizen, and a number of other tragic incidents" (... *nam et Philodamo et nauarchis et cruci ciuis Romani et aliis plurimis suas lacrimas dedit*).²⁷⁰ In his treatment of *partitio* (partition) he presents the following example:

A general, who had stood against his father as a candidate and defeated him was captured: the envoys who went to ransom him met his father returning from the enemy. He said to the envoys, "You are too late." They searched the father and found gold in his pockets. They pursued their journey and found the general crucified. He cried to them, "Beware of the traitor." The father is accused.

*Dux qui competitorem patrem in suffragiis uicerat captus est: euntes ad redimendum eum legati obuuium habuerunt patrem reuertentem ab hostibus. Is legatis dixit: sero itis. Excusserunt illi patrem et aurum in sinu eius inuenerunt: ipsi perseuerarunt ire quo intenderant, inuenerunt ducem cruci fixum, cuius uox fuit: caute proditorem. Reus est pater.*²⁷¹

It is apparent that since the crucified son can still speak, it is not a question of impalement, and this is clear evidence that Quintilian does not conceive of crucifixion as impalement (he uses *crux* instead of *stipes* which Seneca uses twice for impalements). An instance of *improprium* (impropriety) is the statement: "His words fell from the cross" (*de cruce uerba ceciderunt*).²⁷² Again in this case the crucified person, presumably in great pain, is able to speak (and so not impaled). As an example of *amplificatio* (amplification), he quotes Cicero's phrase in the Verrines:

²⁶⁸ Quint. Inst. 4.2.17, trans. of Quintilian, *Institutio Oratoria*, vol. 1-4, LCL, ed. and trans. H. E. Butler, Cambridge, MA/London 1920-22, 1.59. Cf. Cic. Ver. 2.5.7 (chapt. 2 § 2.4).

²⁶⁹ Chapt. 2 § 2.4.

²⁷⁰ Quint. Inst. 6.1.54, trans. of Butler, Quintilian, 2.415. For Philodamus, cf. Cic. Ver. 2.1.64-1.84 and for the ship's captain see 2.5.117.

²⁷¹ Quint. Inst. 7.1.29-30, trans. of Butler, Quintilian, 3.23.

²⁷² Quint. Inst. 8.2.4, trans. of Butler, Quintilian, 3.199.

"It is a sin to bind a Roman citizen, a crime to scourge him, little short of the most unnatural murder to put him to death; what then shall I call his crucifixion?" If he had merely been scourged, we should have had but one step, indicated by the description even of the lesser offence as a sin, while if he had merely been killed, we should have had several more steps; but after saying that it was "little short of the most unnatural murder to put him to death," and mentioning the worst of crimes, he adds, "What then shall I call his crucifixion?" Consequently, since he had already exhausted his vocabulary of crime, words must necessarily fail him to describe something still worse.

*"facinus est uincire ciuem Romanum, scelus uerberare, prope parricidium necare: quid dicam in crucem tollere?" Nam et si tantum uerberatus esset uno gradu increuerat, ponendo etiam id esse facinus quod erat inferius, et si tantum occisus esset per plures gradus ascenderat: cum uero dixerit "prope parricidium necare," supra quod nihil est, adiecit "quid dicam in crucem tollere?" Ita cum id quod maximum est occupasset necesse erat in eo quod ultra est uerba deficere.*²⁷³

Quintilian presumably also believed that crucifixion was not an appropriate punishment for a Roman citizen.

2.8 Ps. Quintilian (school of Quintilian?)

The *Minor Declamations* are probably to be ascribed to a rhetor belonging to the school of Quintilian.²⁷⁴ The work comprises a set of *controversiae*, which are speeches in character from fictional law cases.²⁷⁵ They are often preceded by *sermones* "or comments which are meant to explain to the student the particular rhetorical problem posed in each assignment and to suggest the approach the student should take in composing his declamation."²⁷⁶ One of the declamations describes the case of a tyrant struck by lightning. The question is what is to be done with the corpse. The rhetor who argues against burying the body in the Forum includes this example:

When we crucify criminals the most frequented roads are chosen, where the greatest number of people can look and be seized by this fear. For every punishment has less to do with the offence than with the example.

*Quotiens noxios cruci figimus, celeberrimae eliguntur viae, ubi plurimi intueri, plurimi commoveri hoc metu possint. Omnis enim poena non tam ad delictum pertinet quam ad exemplum.*²⁷⁷

This sentiment is reflected in a legal text of Callistratus in which bandits are crucified where they carry out their depredations in order to discourage others

²⁷³ Quint. Inst. 8.4.4-5, trans. of Butler, Quintilian, 3.265.

²⁷⁴ J. Watson, *Speaking Volumes, Orality and Literacy in the Greek and Roman World*, Mn.S 218, Leiden 2001, 200-1.

²⁷⁵ M. Winterbottom, *Declamation*, ³OCD, 436-7.

²⁷⁶ Watson, *Speaking Volumes*, 201.

²⁷⁷ [Quint.] Decl. min. 274.13, trans. of [Quintilian], *The Lesser Declamations*, vol. 1-2, LCL, ed. and trans. D. R. Shackleton Bailey, Cambridge, MA/London 2006, 1.259.

from the same offense.²⁷⁸ Another declamation concerns a slave who refused to administer poison to his sick master:

Cross written for slave who would not give poison. Let it be lawful to appeal to the tribunes concerning unjust punishment. A sick man asked his slave, to whom he had left freedom in his will, for poison. On the slave refusing to give it, he wrote down the cross. The heirs want to punish him accordingly. The slave appeals to the tribunes.

*Crux scripta servo non danti venenum. De iniusto supplicio tribunos appellare liceat. Aeger a servo, cui libertatem scripserat, venenum petit. Nolenti dare crucem scripsit. Heredes volunt supplicium sumere. Servus appellat tribunos.*²⁷⁹

The proposed crucifixion is for disobedience to a master.²⁸⁰ This proem is followed by the *declamatio*:

He [the heir] says: "It is prescribed in the will." Therefore the tribunes investigate not whether it was written but why it was written. The cross was written. Why? What had he done? Let us examine his past life. I see that earlier on freedom had been written for him. What did he do wrong so suddenly? Did he want to give poison to his master so as to enjoy his freedom the sooner? I have got it upside down. He would be in no danger if he had given it. He says: "When my master asked for poison I did not give it."

*"Testamento" inquit "cautum est." Ideo tribuni cognoscunt non utrum scriptum sed quare scriptum sit. Crux scripta est. Quare? Quid commisit? Ante actam vitam scrutemur. Video illi prius libertatem fuisse scriptam. Quid igitur tam subito peccavit? Numquid venenum dare domino voluit quo citius libertate frueretur? In contrarium incidi. Non periclitaretur si dedisset. "Petenti" inquit "domino non dedi."*²⁸¹

The argument presumes that if the slave had obeyed the master then he could enjoy his freedom. In the *sermo* (discussion) that follows there is a reference to what is probably the placard (*titulus*) to be placed over the cross:

Question: are all commands to be obeyed, are those of a sick man, is this a command? here first we say that he should not have obeyed, then that he could not. Finally comes a description of the punishment under the appropriate placard.

*Quaestio an omnibus imperiis parendum, an aegri, an huic imperio. Hic, primum non debuisset, deinde non potuisset parere. Ultima supplicii figuratio, sub eiusmodi titulo.*²⁸²

Shackleton-Bailey compares the placard to that placed over Jesus' cross.²⁸³ There is a question about whether slaves actually had the right to appeal to tribunes.²⁸⁴

²⁷⁸ Callistratus 6 De cognitionibus in Dig. 48.19.28.15 (chapt. 5 § 1.5).

²⁷⁹ [Quint.] Decl. min. 380.pr., trans. of Shackleton Bailey, [Quintilian], 2.407. Cp. § 1.14 above.

²⁸⁰ Cp. Theodolus in chapt. 2 § 3.24.2.

²⁸¹ [Quint.] Decl. min. 380.1, trans. of Shackleton Bailey, [Quintilian], 2.407. Some MSS have *dedit* (he gave).

²⁸² [Quint.] Decl. min. 380.2, trans. of Shackleton Bailey, [Quintilian], 2.407.

²⁸³ Shackleton Bailey, [Quintilian], 2.407. Cp. chapt. 2 § 3.2.3.

²⁸⁴ Cf. the discussion of Calpurnius Flaccus, Decl. 17 in § 2.20 below.

2.9 Ps. Quintilian, Major Declamations

The date of the *Major Declamations* is unknown.²⁸⁵ In one of them poor parents have two sons, one who is virtuous and the other who is extravagant. Both sons are captured by pirates. The parents can only afford to redeem one and choose the virtuous (*frugi*) son who dies after he returns. The other escapes and the parents ask for *alimenta* (the cost of maintenance) from their son who refuses.²⁸⁶ The advocate for the father includes these details about a pirates' grotto:

It bristled everywhere with crosses, the whole place was covered with the wreckage of ships, and there was nothing to see except torture and death. This suffering served as a fearful reminder to the rest of the unfortunate captives of a similar fate.

*horrent cuncta crucibus, squalent circumiecta naufragiis, nullus nisi in supplicia mortisque prospectus, et ad infelicium captivorum metum praemissus de simili exitu dolor.*²⁸⁷

Another declamation concerns a father who was captured by pirates and wrote home to ask his family to pay for his ransom. His wife became blind from her tears. She begged her son to remain home, but he refused and in turn was captured by the pirates. The father, after he successfully returned home, wanted to bury the son's corpse that had washed to shore.²⁸⁸ The mother does not want her son buried. The father's advocate argues at one point:

Crosses are cut down, the executioner does not prevent those who have been struck/pierced from being buried, the pirates did no more than throw the corpse into the sea.

*Cruces succiduntur, percussos sepeliri carnifex non vetat, ipsi piratae nihil amplius quam proiciunt.*²⁸⁹

This may be confirmation for the piercing of Jesus' side mentioned in John 19:34.²⁹⁰ Origen offers some support for this interpretation of Ps. Quintilian:

Pilate ... fearing the tumult of the entire mob, did not command, according to the Romans' custom for those who are crucified, that Jesus be pierced [*percuti*] underneath the arms of his body – which those do occasionally who sentence individuals that have been found guilty of serious crimes (since accordingly they who are not pierced after being nailed en-

²⁸⁵ M. Winterbottom, *Declamationes pseudo-Quintilianae*, ³OCD, 437.

²⁸⁶ [Quint.] Decl. 5.pr.

²⁸⁷ [Quint.] Decl. 5.16, trans. modified of L. A. Sussman, *The Major Declamations Ascribed to Quintilian. A Translation*, Frankfurt am Main/New York 1987, 63 (who unnecessarily translates *cruces* as "torture racks").

²⁸⁸ [Quint.] Decl. 6.pr.

²⁸⁹ [Quint.] Decl. 6.9, trans. modified of Sussman, *The Major Declamations*, 75.

²⁹⁰ *Percussus* used in contexts of execution or death usually appears with an ablative (e.g. *gladio, securi* [sword, axe, etc.]), but cf. Liv. 2.19.8 (*Mamilio pectus percussum* [Mamilius's breast pierced]) where *hastis* (spears) are mentioned earlier. The word's usage implies that a weapon was employed (and not just crucifixion) in the text of Ps. Quintilianus.

dure great agony, but live on in extreme pain, sometimes indeed an entire night and even a whole day after).

*Pilatus ... timens populi totius tumultum, non iussit, secundum consuetudinem Romanorum de his qui crucifiguntur, percuti sub alas corporis Iesu*²⁹¹ – *quod faciunt aliquando qui condemnant eos qui in maioribus sceleribus sunt inventi (quoniam ergo maiorem sustinent cruciatum qui non percutiuntur post fixationem, sed vivunt cum plurimo cruciatu, aliquando autem et tota nocte et adhuc post eam tota die).*²⁹²

Origen was certainly aware of Roman practice, since crucifixion was used until the time of Constantine. The translator used the same verb that Ps. Quintilian did for the piercing (*percutiuntur*).

A legate in one rhetorical exercise is sent during a famine to buy food and return by an appointed day. He is delayed by a storm, but ends up returning on the determined day. The citizens have turned to eating corpses, however, and he is accused of treason (*rei publicae laesae accusatur*).²⁹³ The advocate for the prosecution argues, “The guilty person chooses the crime, that is, the criminal opts for the cross!” (*eligit reus crimen, hoc est, noxius crucem optat!*).²⁹⁴

2.10 Marcus Annaeus Lucanus (39-65 C.E.)

Lucan provides a vivid picture of suicides and crucifixion in his description of the Thessalian witch, Erichtho:

She breaks with her mouth the noose and murderous knots. She pulls off suspended corpses and scrapes the crosses clean;

He envisions a decaying body on a cross:

... she tears away the rain-beaten flesh and the bones calcined by exposure to the sun. She purloins the nails that pierced the hands, the clotted filth, and the black humor of corruption that oozes over all the limbs; and when a muscle resists her teeth, she hangs her weight upon it.

*... laqueum nodosque nocentis
ore suo rupit, pendentia corpora carpsit
abrasitque cruces percussaue viscera nimbis
vulsit et incoctas admisso sole medullas.
insertum manibus chalybem nigramque per artus
stillantis tabi saniem virusque coactum
sustulit et nervo morsus retinente pependit.*²⁹⁵

²⁹¹ *Iesum*, cj. Diehl.

²⁹² Origen Comm. Ser. Mat. 140, Matt 27:54 (GCS Origenes XI, 290,13-9 Klostermann).

²⁹³ [Quint.] Decl. 12.pr.

²⁹⁴ Ps. Quint., Decl.12.12.

²⁹⁵ Luc. 6.543-9, trans. of Lucan, LCL, ed. and trans. J. D. Duff, Cambridge, MA/London 1928, 343-5. The trans. “She breaks ... crosses clean” is mine. Sextus Pompeius, the son of Pompey, had summoned her to forecast the outcome of the battle of Pharsalus (6.588-82).

For the poet nails and crosses are an essential element of the concept of crucifixion. His witch takes advantage of unburied suicides and crucified individuals. The noose was clearly placed around the individual's neck, and probably the noose is of a hanged person and not for attaching a person to a cross.²⁹⁶ One scholiast writes that the noose refers to persons who have hung themselves (*eorum qui se suspendunt*).²⁹⁷ Another scholiast notes that "she collects all these things for her magic art, if in any place someone has died by the noose or by the cross, she gathers these members."²⁹⁸ The iron is: "the nails of those who have been crucified and are inserted into their hands" according to the same scholiast.²⁹⁹ The nails show that Lucan envisions crucifixion and not impalement. The noose refers to suicides, since hanging was not a capital punishment in ancient Rome.

He describes Caesar's speech before the battle of Pharsalus:

Picture to yourselves the cross and the chains in store for Caesar, my head stuck upon the Rostrum and my limbs unburied; think of the crime of the Saepta and the battle fought in the enclosed Campus.

*Caesareas spectate cruces, spectate catenas,
et caput hoc positum rostris effusaque membra*

²⁹⁶ J. Bodel, The Organization of the Funerary Trade at Puteoli and Cumae, in: Panciera, Libitina, 147-72, esp. 166 n. 43 believes that some crucified individuals were bound at the neck with ropes. He refers to this text and Plin. Nat. 28.46. Oldfather, Supplicium, 57-8 argues that hanging is meant and that 6.544 (*pendentia corpora* etc.) refers to crucifixion ("... a glance shows that in 543 only persons hanging by a rope are meant, and in 544 only the crucifixion. The Schol. long ago could have settled the case, – sic ubi aut laqueo aliquis obiit aut cruce, etc."). Since the nooses are "fatal" (*nocentis*), Oldfather has the better argument.

²⁹⁷ Schol. in Luc. 6.543 (H. Usener, ed., Scholia in Lucani Bellum civile. Pars prior commenta bernensia, Leipzig 1869, 210,12) is LAQEVN NODOSQ· NOCENTIS *eorum qui se suspendunt* (noose and murderous knots: of those who hang themselves). For 6.547 the scholiast's comment is *clavos cruci adfixis* (nails fixed to the cross) (210,14 Usener).

²⁹⁸ Schol. in Luc. 6.543, Adnotationes super Lucanum, BiTeu, ed. I. Endt, Stuttgart 1969, 230,25-7: LAQUEM N. Q. *haec omnia ad usum colligit magicae artis, sicubi aut aliquit laqueo obiit aut cruce, haec membra conquirat*.

²⁹⁹ Schol. in Luc. 6.547 (231,1-2 Endt): INSERTUM MANIBUS CALYBEM *id est ferrum; nam clavi eorum, qui crucifixi sunt, manibus inseruntur*. The scholiast points out that the Chalybes were known for discovering iron (*Ab his enim, qui ferrum invenerunt, ferro nomen imposuit* [231,2-3 Endt]). Another interpretive possibility appears in G. A. Cavajoni's collection of Scholia ad Luc. 6.547 (Supplementum adnotationum ad Lucanum, vol. 1-3, Milan et al. 1979-90, 2.50: CHALYBEM *crucifixorum clavum* (aADR [various MSS]; *vel arma quibus solitus fuit exercere nefas; cum quibus suspensus est* (DR). *Id est clavos* (V).: Iron: the nail of crucified individuals; or the implements that customarily were forbidden to use, with which he was suspended [on the cross]. [or] That is: nails. For explanation of the MSS, cf. Cavajoni's first volume (1.ix-xlx).

*Saeptorumque nefas et clausi proelia Campi.*³⁰⁰

This could refer to a cross for Caesar, but another possible translation is “the Caesarians’ crosses.”³⁰¹ Plutarch writes that Sulla had 6000 prisoners killed in the Circus (Flaminius) which was on the Campus Martius.³⁰² Caesar is comparing his possible fate (and perhaps that of his followers also) with that of unburied victims of execution. If the Caesarians are to be included in the interpretation then Caesar views them as being the possible victims of crucifixion with no burial. Pothinus (who with Achillas had conspired against Pompey) in a speech to Achillas warns him about the marriage of Cleopatra and Ptolemy (XIII):

We shall pay the penalty with crosses and flames if she should be a beautiful sister. On both sides no help remains: the king on the one side and Caesar the adulterer on the other.

.... *crucibus flammisque luemus*
si fuerit formosa soror. nil undique restat
*auxilii: rex hinc coniunx, hinc Caesar adulter.*³⁰³

Later Lucan describes Pothinus’s death by beheading during the siege of Caesar in Alexandria:

For, when he had prevented the enemy from sailing out to sea by the narrow passage [off Pharos] and saw the harbour open for reinforcements, he postponed no longer the punishment of death which Pothinus had so richly earned. But Caesar’s wrath did not destroy him by fitting means

He envisions the “fitting means” as the *summa supplicia* [extreme punishments] of Roman penal justice:

³⁰⁰ Luc. 7.304-6, trans. of Duff, Lucan, 391-3. With regard to the head placed on the Rostra, the scholiast remarks that this was the custom used against public enemies (Schol. in Luc. 7.305 *sicut solet de hostibus publicis fieri* [233,24-5 Usener]).

³⁰¹ R. Bauman, *The Crimen Maiestatis in the Roman Republic and Augustan Principate*, Johannesberg 1967, 117 translates: “Behold crosses for Caesarians, and fetters and this head affixed on the dais, and limbs in confusion.” However, the *Caesareis ... armis* of 3.762 refers to “Caesar’s arms” and the *Caesareas acies* of 3.264 is Caesar’s army, the *Caesareas ... cohortes* of 6.247 is Caesar’s cohorts. The scholiast in Endt, *Adnotationes super Lucanum*, 265,17-8 on 7.304 has CAESAREAS s.c. *quibus potest Caesarem hostis infigere* ([crosses] on which it is possible for Caesar to fasten the enemies). The OLD, s.v. *Caesareus*, for sense 1, has “Of or connected with Julius Caesar.” A scholium (one of the hands of MS V [Voss. Lat. Q. 51]) has CAESAREAS SPECTATE C. *si illi vicerint, in crucibus suspendemur* (if they win, we will be suspended on crosses). Cf. Schol. ad Luc. 7.304 (2.101 Cavajoni [with discussion of the reliability of the MS in 1.xxxvi-xlii]).

³⁰² Plutarch Sull. 30.2 The scholiast in Luc. 7.306 writes that Sulla wanted the legions of Marius killed on the Campus, in a place which he identifies with the Saepta (*SEPTORVM-QUE NEFAS locus est in Campo ubi Sylla legiones hostiles interfici uoluit id est Marianas* [233,26-7 Usener]). Cf. Richardson, *Circus Flaminius, A New Topographical Dictionary*, 83 and idem, *Saepta Julia*, *ibid.*, 340-1.

³⁰³ Luc. 10.365-7. Cf. chap. 2 § 2.11.

– the cross, or the flames, or the teeth of wild animals: he perished by the death of Magnus.

*abstulit excursus et fauces aequoris hosti
Caesar et auxiliis ut uidit libera ponti
ostia, non fatum meriti poenasque Pothini
distulit ulterius. sed non, qua debuit, ira,
non cruce, non flammis rapuit, non dente ferarum:
[heu facinus, gladio ceruix male caesa pependit]
Magni morte perit.*³⁰⁴

A scholiast explains that Pothinus's death was by the sword.³⁰⁵

2.11 Publius Papinius Statius (b. between 45 and the early 50's)

Although Statius does not use of the image of crucifixion in this text it is a rare use of *crux* in a different context. In a poem on the *Via Domitiana* that ran from Sinuessa to Puteoli, Statius gives this picture of the former difficulties of using the road:³⁰⁶

Here once the sluggish traveler, born along on a single axle, used to sway on a precarious cross [*crux*] while the spiteful earth sucked down his wheels, and the people of Latium in the middle of the land shivered at the miseries of a sea-voyage.

*Hic quondam piger axe vectus uno
nutabat cruce pendula viator
sorbebatque rotas maligna tellus,
et plebs in mediis Latina campis
horrebat mala navigationis;*³⁰⁷

Kathleen M. Coleman comments on the *cruce pendula*: "Housman, in his annotated copy of Vollmer, takes this metaphorically, 'a rack on wheels'. But *pendula* suggests an actual structure precariously poised. *pendere* and its derivatives can denote perching as well as hanging ..."³⁰⁸ Shackleton Bailey notes that "With one of the two wheels stuck in the mud, the traveller clings to the pole (*crux* = pole and yoke)."³⁰⁹ Coleman in turn remarks that a two-wheeled carriage (*cisium*),

³⁰⁴ Luc 10.513-9, trans. of Duff, Lucan, 629. The trans. of "the cross ... Magnus" is mine. The expression in brackets refers to the beheading of Pothinus.

³⁰⁵ Schol in Luc. 10.519 (3.164 Cavajoni): MAGNI MORTE P. *scilicet ut Pompeius occisus est* (aADR). Gladio (a). He died the death of Magnus: namely as Pompeius was killed. By the sword.

³⁰⁶ Cf. J. J. L. Smolenaars, Ideology and Poetics along the Via Domitiana: Statius Silvae 4.3, in: Flavian Poetry, ed. by R. R. Nauta et al., Leiden 2006, 223-4.

³⁰⁷ Stat. Silv. 4.3.27-31, trans. of Statius, Silvae IV, ed., trans. and comm. by K. M. Coleman, Oxford 1988, 13-15.

³⁰⁸ Coleman, Statius, Silvae IV, 111 (with reference to Ov. Pont. 1.8.51 and Col. 10.225).

³⁰⁹ Statius, Silvae, LCL, ed. and trans. D. R. Shackleton-Bailey, Cambridge, MA/London 2003, 257.

... could be drawn by a single animal or a pair ... The mention of a single draught-animal at l. 34 does not refer to the vehicle on which the *piger uiator* is travelling. Instead of shafts, a *cisium* drawn by two animals could have a single pole with an animal yoked to it on each side. A cruciform shape would thus be made where the pole bifurcated the axle affording support to a rudimentary seat.³¹⁰

G. Lafaye depicts a bas-relief of such a *cisium* with two horses and a pole with yoke, which appears to be cruciform.³¹¹

2.12 *Lucius Iunius Moderatus Columella* (fl. 50 C.E.)

Columella wrote his treatise on agriculture ca 60-65 C.E.³¹² With regard to the treatment of tenants (*coloni*), Columella writes:

But the master should not be insistent on his rights in every particular to which he has bound his tenant, such as the exact day for payment, or the matter of demanding firewood and other trifling services in addition, attention to which causes country-folks more trouble than expense; in fact, we should not lay claim to all that the law allows, for the ancients regarded “the extreme of the law” as “the extreme of oppression” [i.e., crucifixion].

*sed nec dominus in unaquaque re, cui colonu obligauerit, tenax esse iuris sui debet, sicut in diebus pecuniarum uel lignis et ceteris paruis accessionibus exigendis, quarum cura maiorem molestiam quam impensam rusticis adfert. nec sane est uindicandum nobis quicquid licet, nam summum ius antiqui summam putabant crucem.*³¹³

In this text “cross” is used as a metaphor for the suffering that can be imposed upon tenants and is apparently based on a proverbial saying. In another passage he writes:

Amythaon’s son (Melampus), whom Chiron taught much wisdom, hung [suspended] aloft night-flying birds on crosses and forbade their sad funereal cries on roof tops high

*Hinc Amythaonius, docuit quem plurima Chiron,
Nocturnas crucibus uolucres suspendit et altis*

³¹⁰ Coleman, Statius, 111 with ref. to G. Lafaye’s art. on *cisium*.

³¹¹ G. Lafaye, *Cisium*, DAGR, I, 1201. A. degli Abati Olivieri Giordano, *Marmora Pisauensis*, Pisauri 1738, 155 depicts a sarcophagus from Pisoaro in which the *cisium* has one horse and a pole attached to a yoke. The yoke appears to be leather or some other material and is depicted on the horse’s left side. J. Z. Ginzrot, however, (*Die Wagen und Fuhrwerke der Griechen und Römer und anderer alter Völker*, 2 vols., Munich 1817, 2. Tab. 42) depicts several *cisia* with the pole between the draft animals.

³¹² M. S. Spurr, *Columella*, *Lucius Iunius Moderatus*,³OCD, 367.

³¹³ Col. 1.7.2, trans. of Lucius Junius Moderatus Columella, *On Agriculture*, vol. 1, LCL, ed. and trans. H. B. Ash, Cambridge, MA/London 1941, 79-81. Ash notes that this is similar to a proverb found in Cicero (Off. 1.33) *summum ius, summa iniuria* (the extreme of the law, the extreme of injustice) and Ter. Hau. 796 *ius summum saepe summast malitia* (the extreme of the law is always the worst malicious act). For other similar sayings cf. C. Hartung, *Lateinische Sentenzen*, Berlin 1872, 149-50.

*Culminibus uetuit feralia carmina flere.*³¹⁴

Presumably Melampus crucified the birds to stop them from uttering inauspicious songs.

2.13 Marcus Manilius (*reign of Augustus and Tiberius*)

Manilius's Stoic treatise on astrology contains a reference to the "crucifixion" of Andromeda in a discussion of the star Andromeda in relation to the departure of the constellation Pisces.³¹⁵

And as soon as one came to the shore of the enemy sea, her tender arms were extended on the sharp cliffs; they bound her feet to the rocks and bonds were attached, and so the girl hung, about to die, on the virgin cross. And yet her face and modesty were preserved during the punishment, the torments adorned her; with her snow-white neck easily leaning back she appeared to be herself the guardian of her own beautiful form.

*at, simul infesti ventum est ad litora ponti,
mollia per duras panduntur bracchia cautes;
astrinxere pedes scopulis, iniectaque vincla,
et cruce virginea moritura puella pendit.
servatur tamen in poena vultusque pudorque;
supplicia ipsa decent; nivea cervice reclinis
molliter ipsa suae custos est visa figurae.*³¹⁶

She is punished in a cruciform shape. In one image she is actually attached to a *patibulum*.³¹⁷ Manilius associates crosses and fetters – a basic element of Roman crucifixion practice.

³¹⁴ Col. 10.348-50, trans. of Lucius Junius Moderatus Columella, *On Agriculture*, vol. 3, LCL, ed. and trans. E. S. Forster and E. H. Heffner, Cambridge, MA/London 1955, 37. Cp. the comparison of lovers with owls in Apul. Met. 3.23.4 *quid, quod istas nocturnas aues, cum penetrauerint larem quempiam, sollicitae prehensas foribus uidemus adfigi, ut, quod infaustis uolatibus familiae minantur exitium, suis luant cruciatibus* (for when they fly into any place by night and are taken, they are nailed upon posts [doors], and so they are worthily rewarded with torment because it is thought that they bring evil fortune to the house by their ill-omened flight, trans. of Apuleius, *The Golden Ass*, LCL, ed. and trans. W. Adlington and S. Gaselee, Cambridge, MA/London 1924, 135). Verg. Aen. 4.462-3 *solaque culminibus ferali carmine bubo / saepe queri et longas in fletum ducere voces*; (and alone on the housetops with ill-boding song the owl would oft complain, drawing out its lingering notes into a wail, trans. of Virgil, *Aeneid*, Vol. 1, LCL, H. R. Fairclough, Cambridge, MA/London 1919, 453).

³¹⁵ Man. 5.538-9 *Andromedae sequitur sidus, quae Piscibus ortis / bis sex in partes caelo venit aurea dextro*.

³¹⁶ Man. 5.549-55. Trans. done with ref. to W. Hübner, *Manilius ›Astronomica‹ Buch V*, Berlin 2010, 125. On this text, cf. I. Ramelli, *Alcune osservazione sulle occorrenze di Crux in Manilio, Seneca, Giovenale, Marziale, Espacio, Tiempo y Forma, Serie II, Historia Antigua* 12 (1999) 241-52, esp. 242-7.

³¹⁷ Cf. figure 3.

2.14 Petronius (Petronius Arbiter? d. 66 C.E.)

The author of the *Satyrica* is perhaps Petronius Arbiter who was forced by Nero to commit suicide. There are many uses of crucifixion in the fictional text, but it probably reflects Roman reality. A slave named Mithridates suffered on the wealthy Trimalchio's estate for his effrontery: On the same date [July 26]: the slave Mithridates was led to the cross for having damned the soul of our lord Gaius (*eodem die: Mithridates servus in crucem actus est, quia Gai nostri genio male dixerat*).³¹⁸ An enemy of the adventurer Ascyltus addresses Giton, the companion and lover of Encolpius (the narrator), after he laughed at one of his remarks: What should the cross-meat do, the raven's fodder? (*quid faciat crucis offla, corvorum cibaria?*).³¹⁹ This text reflects the practice of not burying some crucified individuals. The narrator includes the famous story of the matron of Ephesus mourning her dead husband:

There was but one opinion throughout the city, every class of person admitting this was the one true and brilliant example of chastity and love. At this moment the governor of the province gave orders that some robbers should be crucified [fixed/nailed to crosses] near the small building where the lady was bewailing her recent loss. So on the next night, when the soldier who was watching the crosses, to prevent anyone taking down a body for burial observed a light shining plainly among the tombs, and heard a mourner's groans, a very human weakness made him curious to know who it was and what he was doing.

*una igitur in tota civitate fabula erat, solum illud affulsisse verum pudicitiae amorisque exemplum omnis ordinis homines confitebantur, cum interim imperator provinciae latrones iussit crucibus affigi secundum illam casulam, in qua recens cadaver matrona deflebat. proxima ergo nocte cum miles, qui cruces asservabat ne quis ad sepulturam corpus detraheret, notasset sibi [et] lumen inter monumenta clarius fulgens et gemitum lugentis audisset, vitio gentis humanae concupiit scire quis aut quid faceret.*³²⁰

Detraheret (to detach by pulling, cf. OLD s.v.) implies that the magistrate wants no one to pull the body away from the cross, which excludes impalement as does *affigi* (nail to, fix on).³²¹ The soldier then persuaded the beautiful woman to break her fast, and he seduced her.

So the parents of one of the crucified, seeing that the watch was ill-kept, took their [suspended] man down in the dark and administered the last rite to him. The soldier was eluded while he was off duty, and next day, seeing one of the crosses without its corpse, he was in terror of punishment, and explained to the lady what had happened.

³¹⁸ Petr. 53.3 (BiTeu, 47,1-2 K. Müller). Trans. of Petronius, LCL, ed. and trans. M. Heseltine, Cambridge, MA/London 1925, 93.

³¹⁹ Petr. 58.2.

³²⁰ Petr. 111.5-6, trans. of Heseltine, Petronius, 231.

³²¹ Cp. Cicero's letter to Catienus with the use of the same verb for an individual who had, in theory, been pulled down alive from a cross (Cic. Q. fr. 1.2.6 in § 1.6 above).

*itaque unius cruciarii parentes ut viderunt laxatam custodiam, detraxere nocte pendentem supremoque mandaverunt officio. at miles circumscriptus dum desidet, ut postero die vidit unam sine cadavere crucem, veritus supplicium, mulieri quid accidisset exponit ...*³²²

The word used to describe suspension (*pendentem*) indicates crucifixion and not impalement. Clearly the crucified bandits were denied burial. When the soldier was about to commit suicide with his own sword the matron says:

"Heaven forbid," she replied, "that I should look at the same moment on the dead bodies of two men whom I love. No, I would rather make a dead man useful, than send a live man to death." After this speech she ordered her husband's body to be taken out of the coffin and fixed up on the empty cross. The soldier availed himself of this far-seeing woman's device, and the people wondered the next day by what means the dead man had ascended the cross.

*"nec istud" inquit "dii sinant, ut eodem tempore duorum mihi carissimorum hominum duo funera spectem. malo mortuum impendere quam vivum occidere." secundum hanc orationem iubet ex arca corpus mariti sui tolli atque illi quae vacabat cruci affigi. usus est miles ingenio prudentissimae feminae, posteroque die populus miratus est qua ratione mortuus isset in crucem.*³²³

The language (be "fixed" or "nailed" to a cross) describes a post-mortem crucifixion. The sailors, to whom the poet Eumolpus has told the tale, roar with laughter, but Lichas, the ship's captain, becomes angry, "If the ruler had been just, he should have returned the corpse of the *pater familias* back to the tomb and attached [or nailed] the woman to a cross" ("*si iustus*" inquit "*imperator fuisset, debuit patris familiae corpus in monumentum referre, mulierem affigere cruci*").³²⁴ A slave named Chrysis, whose mistress Circe is in love with Encolpius, flirts with him: "I never yielded to a slave yet, and God forbid that I should throw my arms round a gallows-bird [cross]" (*ego adhuc servo numquam succubui, nec hoc dii sinant, ut amplexus meos in crucem mittam*).³²⁵ Encolpius was an escaped gladiator who had killed a host, but he was not a slave.³²⁶ When Encolpius, in a temple of Priapus to be cured of his impotence, kills a sacred goose, Onothea (a magician) tells him: "And do not suppose that this is not serious; if any magistrate finds out, on the cross you go" (*itaque ne te putes nihil egisse, si magistratus hoc scierint, ibis in crucem*).³²⁷

³²² Petr. 112.5-6, trans. of Heseltine, Petronius, 235.

³²³ Petr. 112.8, trans. of Heseltine, Petronius, 235.

³²⁴ Petr. 113.2, my trans.

³²⁵ Petr. 126.9, trans. of Heseltine, Petronius, 279.

³²⁶ Petr. 9.8, 81.3.

³²⁷ Petr. 137.2, trans. of Heseltine, Petronius, 309.

2.15 Tiberius Catius Asconius Silius Italicus (ca 26-102)

Silius's epic on the Second Punic War is the longest surviving Latin poem. He gives a purported version of the death of Hasdrubal, son-in-law of Hamilcar Barca, in 221.³²⁸ He had Tagus, a Spanish chief, crucified on a tree.

Tagus, a man of ancient race, remarkable for beauty and of proved valour, Hasdrubal, defying gods and men, fastened high on a wooden cross, [or "fastened on the erect trunk of an oak"] and displayed in triumph to the sorrowing natives the unburied body of their king.

*ore excellentem et spectatum fortibus ausis
antiqua de stirpe Tagum, superumque hominumque
immemor, erecto suffixum robore maestis
ostentabat ouans populis sine funere regem.*³²⁹

This is another example of a crucified individual who was denied burial. Clearly it is not an impalement since he is on a tree. One of his slaves takes vengeance on his master's killer.

Then a servant, when he saw that hideous death and the body of Tagus hanging [i.e., suspended] on the fatal tree, stole his master's favourite sword and rushed into the palace, where he smote that savage breast once and again.

*quem postquam diro suspensum robore uidit
deformem leti famulus, clam corripit ensem
dilectum domino pernixeque inrumpit in aulam
atque immite ferit geminato uulnere pectus.*³³⁰

The Carthaginians' response was fierce, according to Silius:

Every device was used – fire and white-hot steel, scourges that cut the body to ribbons with a rain of blows past counting, the hands of the torturers, the agony driven home into the marrow, the flame burning in the heart of the wound.

*non ignes candensque chalybs, non uerbera passim
ictibus innumeris lacerum scindentia corpus,
carnificaeue manus penitusue infusa medullis
pestis et in medio lucentes uulnere flammae
cessauere; ...*³³¹

The slave taunts his Carthaginian executioners:

But the man's spirit remained unbroken; he was the master still and despised the suffering; like a mere looker-on he blamed the myrmidons of the torturer for flagging in their task and loudly demanded to be crucified like his master.

mens intacta manet: superat ridetque dolores

³²⁸ H. H. Scullard and J. Briscoe, Hasdrubal (1), ³OCD, 668.

³²⁹ Sil. 1.151-4, trans. of Silius Italicus, vol. 1-2, LCL, ed. and trans. J. D. Duff, Cambridge, MA/London 1927, 1.15

³³⁰ Sil. 1.165-8, trans. of Duff, Silius, 1.17.

³³¹ Sil. 1.171-5, trans. of Duff, Silius, 1.17.

*spectanti similis, fessosque labore ministros
increpitat dominique crucem clamore reposcit.*³³²

Silius interprets the master's death on the *robor* (trunk) to be crucifixion. The various tortures the slave underwent resemble those that Cicero described in the case of Gavius of Consa and those of the *lex Puteolana*.³³³ A Carthaginian named Gestar referred to Regulus during a speech before the Senate:

I was looking on, when Regulus, the hope and pride of Hector's race, was dragged along amid the shouts of the populace to his dark dungeon, with both hands bound fast behind his back; I was looking on, when he hung high upon the tree and saw Italy from his lofty cross.

*uidi ego, cum, geminas artis post terga catenis
euinctus palmas, uulgo traheretur ouante
carceris in tenebras spes et fiducia gentis
Regulus Hectoreae; uidi, cum robore pendens
Hesperiam cruce sublimis spectaret ab alta.*³³⁴

Apparently Regulus dies on a cross in this text, since the poet emphasizes his vision of Italy from the *robor* (trunk).³³⁵ Silius's understanding of crucifixion excludes impalement.

2.16 Marcus Valerius Martialis (38/41 – 101/104)

Martial, from Spain, was one of Seneca's clients in Rome. He had other patrons, and his writings became quite popular. Mario Citroni writes, "Martial complains that this success did not bring him financial reward: without any copyright in his works, he was dependent on patrons whose lack of generosity towards their clients and refusal to respect the role and dignity of an intellectual and a poet he constantly laments."³³⁶ Book ten of his *Epigrams* was probably published in 95 C.E. Martial uses *crux* metaphorically in an epigram, in which he, as a client, complains of having to put on his toga early (or at midnight) and endure the shrieks of the north wind and the snow to attend his patron:

But if you are not made richer by one quadrans through our groans and crosses [torments] belonging to a free-born person, spare, I pray, an exhausted man, and remit my vain labors that do not profit you, Gallus,³³⁷ and that harm me.

³³² Sil. 1.179-81, trans. of Duff, Silius, 1.17.

³³³ Chapt. 5 § 1.4.3-4.

³³⁴ Sil. 2.339-44, , trans. of Duff, Silius, 1.85.

³³⁵ Silius (6.539-44) describes the instrument of torture the Carthaginians constructed for Regulus, presumably another version of his death. Cf. § 2.3 above.

³³⁶ M. Citroni, Martial (Marcus Valerius Martialis), ³OCD 930-32.

³³⁷ Cp. Mart. 1.108.5, 7 (Gallus and his luxurious house) and 10.56.1, 8. Cynthia Damon argues that Gallus is fictional (idem, *The Mask of the Parasite. A Pathology of Roman Patronage*, Ann Arbor 1997, 166-7).

*Sed si non fias quadrante beator uno
 Per gemitus nostros ingenuasque cruces,
 Parce, precor, fesso vanosque remitte labores,
 Qui tibi non prosunt et mihi, Galle, nocent.*³³⁸

Ilaria Ramelli notes that Martial refers here to the “atrocious penalty of the cross.”³³⁹ The combination of *ingenuas* and *cruces* probably indicates that Martial emphasizes that such crosses/torments belong to slaves, and not free-born persons such as himself.

2.17 A Graffito from Pompeii

A graffito (see fig. 4) found in the Stabian baths of Pompeii (now on the Via dell’Abbondanza) shows that crucifixion could be used as an obscenity:

Get fixed/nailed to a cross (or perhaps, “nail yourself to a cross”)
*In cruce figarus*³⁴⁰

The context of the obscenity may be found in the writings of Plautus where slaves used the image frequently to denigrate others.

2.18 Cornelius Tacitus (born ca 56)

The great historian, who had served as governor of Asia, makes several references to crucifixion. In his *Annals*, the last books of which were probably completed “before the early years of Hadrian’s reign,” he describes Germanicus’s discovery of the area in the Teutoburg forest (15 C.E.) where Varus’s three legions had fallen to Arminius:³⁴¹

Survivors of the disaster, who had escaped the battle or their chains, told how here the legates fell, there the eagles were taken, where the first wound was dealt upon Varus, and where he found death by the suicidal stroke of his own unhappy hand. They spoke of the tribunal from which Arminius made his harangue, all the gibbets [*patibula* crosses] and torture-pits for the prisoners, and the arrogance with which he insulted the standards and eagles.

et cladis eius superstites, pugnam aut vincula elapsi, referebant hic cecidisse legatos, illic raptas aquilas; primum ubi vulnus Varo adactum, ubi infelici dextera et suo ictu mortem

³³⁸ Mart. 10.82.5-8.

³³⁹ Ramelli, *Alcune osservazioni*, 217.

³⁴⁰ CIL IV, 2082. *figarus* = *figaris*, which is probably passive, but could be a middle. Cp. the similar forms in CIL IX, 1837 *Tu qui spatiarus secura spatiarus mente viator* ... (you, traveler who walks, walks with an untroubled mind), CIL IX, 604 = I², 1702 *utarus*, and CIL IV, 2953 *p(h)runis/carus (fruniscarus)*. In CIL IV, 1864 (Pompeii) one individual wrote, “Samius to Cornelius: hang yourself” (*Samius / Cornelio / suspend(e)re*). Cp. Pl. Poen. 309 *suspende te* (hang yourself). See Cook, *Envisioning Crucifixion*, 277 and on CIL IV, 1864, A. Mau, *Pompeii. Its Life and Art*, New York 1899, 483.

³⁴¹ R. H. Martin, Tacitus, ³OCD, 1469-71.

*invenerit; quo tribunali contionatus Arminius, quot patibula captivis, quae scrobes, utque signis et aquilis per superbiam inluserit.*³⁴²

Tacitus here ascribes the practice of crucifixion to Arminius due to his use of *patibula*. Kuhn notes that here *patibulum* stands *pars pro toto* for *crux*.³⁴³ In this case Arminius used crosses with a horizontal piece (*patibulum*) to execute the prisoners.

Tacitus describes the suspension of some tribute collectors (28 C.E.) by the Frisians who had revolted against the unendurable tax demanded of them.

The soldiers stationed to supervise the tribute were seized and nailed to the gibbet [*patibulum* cross with horizontal bar]. Olennius forestalled the rage of his victims by flight, finding shelter in a fort by the name of Flevum, where a respectable force of Romans and provincials was mounting guard on the coast of the North Sea.

*rapti qui tributo aderant milites et patibulo adfixi; Olennius infensos fuga praevenit, receptus castello, cui nomen Flevum; et haud spernenda illic civium sociorumque manus litora Oceani praesidebat.*³⁴⁴

The emphasis on nailing or attaching to the *patibulum* indicates crucifixion (and not impalement of course).³⁴⁵

He describes the suffering of the Romans in Boudicca's Britain. In a reference to Verulamium and London he notes,

It is established that close upon seventy thousand Roman citizens and allies fell in the placed mentioned. For the enemy neither took captive nor sold into captivity; there was none of the other commerce of war; he was hasty with slaughter and the gibbet [*patibulum* cross], with arson and the cross, as though his day of reckoning must come, but only after he had snatched his revenge in the interval.

*ad septuaginta milia civium et sociorum iis quae memoravi locis cecidisse constitit. neque enim capere aut venundare aliudve quod belli commercium, sed caedes patibula ignes cruces, tamquam reddituri supplicium at praerepta interim ultione, festinabant.*³⁴⁶

Tacitus's mention of *patibula* implies that some of the crosses had horizontal members. His usages are *pars pro toto*, a problem which has been extensively discussed above.³⁴⁷ The instruments of execution had both horizontal and vertical elements (with *cruces* in this usage being vertical beams only). Tacitus describes crucifixions, whereas Cassius Dio is more specific. The latter author mentions the suspension of some captive noble Roman women who were subsequently impaled.³⁴⁸

³⁴² Tac. Ann. 1.61.4. Trans. from Jackson, Tacitus, 3.349.

³⁴³ Kuhn, Die Kreuzesstrafe, 705. Cf. intro. § 3.1.

³⁴⁴ Tac. Ann. 4.72.3, trans. of Jackson, Tacitus, 4.129

³⁴⁵ Cp. Kuhn, Die Kreuzesstrafe, 705.

³⁴⁶ Tac. Ann. 14.33.2, trans. of Tacitus, The Annals. Books XIII-XVI, LCL, ed. and trans. J. Jackson, Cambridge, MA/London 1937, 5.163.

³⁴⁷ Cf. intro. § 3.1.

³⁴⁸ Cf. the text in chapt. 3 § 2.13 and intro. § 1 (Cassius Dio 62.7.2).

Tacitus's expression "servile torments" (*serviles quidem cruciatus*) may include crucifixion. He used it in a speech of Manius Lepidus who was describing the offense of Clutorius Priscus who had foolishly written a poem about the death of Drusus, Tiberius's son:

If, Conscript Fathers, we regard one point only, the enormity of the utterance by which Clutorius Priscus has defiled his own soul and the ears of men, – neither the cell, nor the noose, nor even the torments reserved for slaves are adequate to his punishment.

*Si, patres conscripti, unum id spectamus, quam nefaria voce Clutorius Priscus mentem suam et auris hominum polluerit, neque carcer neque laqueus, ne serviles quidem cruciatus in eum suffecerint.*³⁴⁹

In this text the *laqueus* refers to a noose used to garrote prisoners, while they were on the ground.³⁵⁰ The Germans suspend traitors and deserters from trees, although Tacitus does not specify whether this is crucifixion or hanging (*proditores et transfugas arboribus suspendunt*). Hanging is clearly a possibility in this case. Since trees were used impalement is not likely.³⁵¹

2.19 Quintus Curtius Rufus (wrote I C.E.-early II C.E.)

Curtius Rufus, the Roman historian who perhaps wrote during Claudius's reign, describes Alexander's actions after his successful siege of Tyre:³⁵²

Then the anger of the king provided a sad spectacle for the victors, for whom the frenzy for killing had died: 2000 hung fixed/nailed to crosses along a huge length of the shore.

*Triste deinde spectaculum victoribus ira praebeuit regis: duo milia, in quibus occidendis defecerat rabies, crucibus adfixi per ingens litoris spatium pependerunt.*³⁵³

He attributes Roman practice to the Greeks. Alexander, in a speech, expressed his desire to crucify the satrap Bessus who had usurped the rule from Darius III:

Is it this man whom you would suffer to rule? Whom indeed I am in haste to see fixed to a cross, paying the merited penalties to all kings, peoples, and to the faith that he violated.

³⁴⁹ Tac. Ann. 3.50.1, trans. of Jackson, Tacitus, 3.601. Cf. Kuhn, Kreuzesstrafe, 720, who believes it refers to crucifixion and the accompanying torture.

³⁵⁰ Cp. Tac. Ann. 6:5.9.2, 6.25.3 in which Tiberius notes that Agrippina had not been strangled with a garrote or thrown down the Gemonian Stairs (*quod non laqueo strangulata neque in Gemonias proiecta foret*). On the garrote/noose, cf. intro. § 1 and Oldfather, Supplicium, 54 where he lists a set of phrases equivalent to garroting: *strangulare*, *laqueo gulam frangere*, *cervicem frangere*, *fauces elidere*, etc.

³⁵¹ Tac. Germ. 12.1. Cp. the Cimbri (a Germanic tribe) who hung prisoners (cf. Oros. Hist. 5.16.5 in intro. § 1).

³⁵² Cp. A. B. Bosworth, Curtius Rufus, Quintus, ³OCD, 416 (probably to be identified with the suffect consul of 43). Cf. R. Syme and B. M. Levick, Curtius Rufus, *ibid.*, 415.

³⁵³ Curt. 4.4.17.

*Hunc vos regnare patiemini? Quem equidem cruci adfixum videre festino omnibus regibus gentibusque et fidei, quam violavit, meritas poenas solventem.*³⁵⁴

He carried out the desired punishment:

And Alexander had Oxathres approach whom he counted among the guardians of the person of his brother Darius, and commanded that Bessus be handed over to him, so that with ears and nose cut off, fixed/nailed to a cross, the barbarians could pierce him with arrows and watch over his body, lest any birds of prey touch it.

*Et Alexander Oxathren, fratrem Darei, quem inter corporis custodes habebat, propius iussit accedere tradique Bessum ei, ut cruci adfixum mutilatis auribus naribusque sagittis conficerent barbari adservarentque corpus, ut ne aves quidem contingerent.*³⁵⁵

The language of being fixed or nailed to a cross rules out impalement, but the intended execution includes arrows and not just a prolonged death on the cross. Curtius also claims that Alexander crucified a Sogdian chieftain after some of the Macedonian troops climbed to the top of his fortress (the Rock).

Arimazes, his circumstances being despaired over rather than lost, descended to the camp with his kin and some of the most distinguished men of his people; he [Alexander] commanded that all of them be beaten with rods at the foot of the Rock and then be fixed to crosses.

*Arimazes desperatis magis quam perditis rebus cum propinquis nobilissimisque gentis suae descendit in castra; quos omnis verberibus adfectos sub ipsis radicibus petrae crucibus iussit adfigi.*³⁵⁶

The writer attributes the Roman practice of beating the condemned first before the crucifixions. Alexander had the leader of the revolt of the Musicani crucified:

The Musicani revolted again, and Pithon was sent to suppress them. He brought to the king the captive leader of the people who was also the author of the revolt. When Alexander had raised him to a cross, he returned again to the river, where he had commanded the fleet to wait for him.

*Rursus Musicani defecerunt, ad quos opprimendos missus est Pithon, qui captum principem gentis eundemque defectionis auctorem adduxit ad regem. Quo Alexander in crucem sublato rursus amnem, in quo classem expectare se iusserat, repetit.*³⁵⁷

This corresponds to the Roman penalty of crucifixion for sedition (*seditio*).³⁵⁸

³⁵⁴ Curt. 6.3.14.

³⁵⁵ Curt. 7.5.40. In 7.5.43 Curtius says the death was put off so that Bessus could die in the same place Darius (III) did. Arrian Anab. 4.7.3 does not mention crucifixion. Plutarch Alex. 43.6 claims that Alexander had Bessus torn apart by two trees. Cf. Halm-Tisserant, *Realités*, 50.

³⁵⁶ Curt. 7.11.28.

³⁵⁷ Curt. 9.8.16. Cp. Arrian Anab. 6.17.2 in chapt. 3 § 2.8.

³⁵⁸ Chapt. 5 § 1.7.

2.20 Calpurnius Flaccus (wrote after ca 100 C.E.)

Calpurnius Flaccus probably wrote at about the same time as that in which Pliny composed his *Panegyric* of Trajan.³⁵⁹ In a rhetorical declamation Calpurnius describes a situation in which an owner decides that his *paedagogus* (a slave who took the master's children to school and had charge of them) should be crucified because his son had been killed while in the slave's care. The superscript is *Paedagogus cruciarius* (the *paedagogus* to be crucified):

The Law: A foreigner who passes himself off as a citizen shall be sold into slavery.

The Situation: A rich man and a poor man were enemies. They appeared to become reconciled. Charged with being an alien, the poor man is sold into slavery. The rich man bought him and gave him to his son as his *paedagogus*. The youth was killed when surprised in the act of adultery. The *paedagogus* is led off for crucifixion. He appeals to the tribunes on the grounds that this constituted unjust punishment.

*CIVITATEM PEREGRINUS USURPANS VENEAT. Pauper et dives inimici. visi sunt in gratiam redisse. pauper accusatus peregrinitatis venit, emit eum dives et paedagogum filio dedit. adulescens in adulterio deprehensus occisus est. agitur paedagogus in crucem. appellat tribunos de iniusto supplicio.*³⁶⁰

The *paedagogus* makes an appeal to ancient tradition:

I earnestly invoke the intervention which your forefathers left as their legacy even to born slaves.

³⁵⁹ L. A. Sussman, *The Declamations of Calpurnius Flaccus. Text, Translation, and Commentary*, Mn.S 133, Leiden 1994, 6-10.

³⁶⁰ Calp. Decl. 17. Trans. of Sussman, *Declamations*, 51-3. Sussman (ibid. 147) denies that slaves had the right to appeal to the tribunes (the *latio auxilii*). See, however, Marcellus 1 Digestorum in Dig. 49.1.15 Slaves cannot appeal; but their masters can seek the help of an appeal to bring assistance to a slave, and another party can do this in the name of the master. If however, neither the master nor anyone else on his behalf appeals we do not prohibit a slave on whom a heavy sentence has been passed from imploring help on his own behalf (*Serui appellare non possunt: sed domini eorum ad opem seruo ferendam possunt uti auxilio appellationis, et alius domini nomine id facere potest. sin uero neque dominus neque alius pro domino appellauerit, ipsi seruo, qui sententiam tristem passus est, auxilium sibi implorare non denegamus*). Trans. from *The Digest of Justinian*, vol. 1-4, ed. A. Watson, Philadelphia 1985, 4.380-1 (henceforth ref. to as "Digest"). The last sentence (*sin vero ... denegamus*) is apparently not from Marcellus according to O. Lenel, *Palingenesia Iuris Civilis*, vol. I, Leipzig 1889, 590 n. 2 (with no linguistic argument). Rivière, *Le cachot et les fers*, 120-1, however, argues that the chances of a slave's ability to ask for help were weak and that the application of this principle was not frequent (he assumes the text is authentic as does C. Szidzek, *Das frühneuzeitliche Verbot der Appellation in Strafsachen. Zum Einfluss von Rezeption und Politik auf die Zuständigkeit insbesondere des Reichskammergerichts*, Cologne et al. 2002, 107). Modestinus (ref. in Cachot) 17 Resp. in Dig. 49.1.18 constructs a case in which a master appeals for slave who was sentenced to death by wild animals (*Lucius Titius pro servo suo, qui ad bestias datus est, provocationem interposuit*).

*Imploro auxilium quod vestri maiores servis iam natis reliquerunt.*³⁶¹

Jean-Christian Dumont, in a careful discussion of the entire issue denies that this right is rhetorical invention: "Rhetoric, school of efficacy, can only take calculated liberties with the truth, it can outrageously juggle with whatever legal stipulation of a law, but with much more difficulty could it call as witness an imaginary ancient custom." He finds support for this thesis in the cases described by Seneca the Elder and Ps. Quintilian of the slave whom his owner asked to give him poison (*Crux Servi Venenum Domino Negantis*).³⁶² A further support is a narrative in Diodorus Siculus in which Regulus's widow mistreats two Carthaginian prisoners, one of whom dies and who were probably considered slaves. Her own slaves tell the story to others who appeal to the tribunes, hating the cruelty (οἱ δὲ μισοπονηρήσαντες τοῖς δημάρχους προσήγγειλαν).³⁶³ Tribunician auxilium probably depended on the intervention of a patron who would ensure the slaves' access to the tribune.³⁶⁴

In another case with the superscript *Peregrinus cruciarius* (a foreigner to be crucified), Calpurnius describes an alleged citizen sentenced to crucifixion because he killed his mother, caught in the act of adultery.

The Laws: (1) A foreigner passing himself off as a citizen shall be sold into slavery. (2) One may punish mothers caught in adultery. (3) One may appeal to the tribunes on the grounds of unjust punishment.

The Situation: There was a certain man who was apparently the son of citizens. When, during his father's absence, he pursued with a weapon the woman who was apparently his mother after she was surprised in the act of adultery, she said to him, "you are not my legal son." He pressed on and then killed her. Afterwards declared in court to be a foreigner, he was bought as a slave by the father of the slain woman. He is led off to crucifixion by this same man. After he returned from abroad, the man who was his apparent legal father appeals to the tribunes on the grounds of unjust punishment.

*CIVITATEM PEREGRINUS USURPANS VENEAT. LICEAT IN MATRIBUS ADULTERIA VINDICARE ET DE INIUSTO SUPPLICIO TRIBUNOS APPELLARE. Qui videbatur de civibus natus, cum absente patre eam, quae mater videbatur, in adulterio deprehensam insequeretur armatus, ait illa "non es meus". perseveravit et occidit. postea iudicio peregrinus pronuntiatus emptus est ab interfectae patre. ab eodem agitur in crucem. reversus peregre is, qui pater videbatur, appellat tribunos de iniusto supplicio.*³⁶⁵

The father, when he returns from his journey, defends his son before the tribunes and asserts the son's citizenship and filial relationship to the woman killed in adultery. Calpurnius's fictional declamation illustrates the use of crucifixion on *peregrini* (those without Roman citizenship).

³⁶¹ Calp. Decl. 17. Trans. of Sussman, *Declamations*, 53.

³⁶² Sen. Con. 3.9.pr. and [Quint.] Decl. min. 380 above.

³⁶³ Diodorus Siculus 24.12.3.

³⁶⁴ Dumont, *Servus*, 146-53.

³⁶⁵ Calp. Decl. 23. Trans. of Sussman, *Declamations*, 61.

In another declamation, Calpurnius pictures a slave who is taken away to crucifixion by his owner with whom he has fallen in love and who is a prostitute (*Meretrix servum suum amantem se in crucem agit*).

The Situation: A prostitute leads off to crucifixion her slave who is in love with her. This man appeals to the tribunes for intervention on the grounds of unjust punishment.

(Speech of the slave)

I am indeed amazed that the term “crucifixion” has reached the ears of a woman so obliging that she never crucified anyone – except in love. The love here in my heart is the personal and private account of a slave. Are we charging Cupid with a crime – and also a man who submits to this god of ours? It would be a crime on my part, or a moral lapse, had I been the only man to fall passionately in love with you.

*Meretrix servum suum amantem se in crucem agit. appellat tribunus ille de iniusto supplicio. Miror quidem a muliere tam comi crucis nomen auditum, quae nullum umquam nisi amore cruciaverit. Amor animi peculiare secretum est. Accusatur a nobis amor et homo, qui deum nostrum patitur? Esset meum crimen aut error, si te solus adamassem.*³⁶⁶

Lewis A. Sussman notes that such a use of the verb for “crucify” or “torment” is common in love poetry.³⁶⁷

There is a case in Calpurnius Flaccus of a poor man who rejects command as a general.

The Situation: A poor man and a rich man were enemies. During war time the rich man was appointed a commanding general. After he had been routed twice the poor man had a law passed that anyone who had been routed three times would be crucified [raised to a cross]. The rich man was routed a third time and crucified [raised to a cross]. The son of the rich man proposes a bill that the supreme command should be transferred to the poor man. The poor man opposes this.

Pauper et dives inimici. belli tempore dives creatus est imperator. qui cum bis fugatus esset, pauper legem tulit, ut, qui ter fugatus esset, in crucem tolleretur. tertio dives fugatus

³⁶⁶ Decl. 33. Trans. of Sussman, Declamations, 73.

³⁶⁷ Sussman, Declamations, 193 with reference to Catullus 76.10 (why do you torment/crucify yourself more (*quare cur tete iam amplius excrucies?*), 85.2, 99.4 (*suffixum in summa me meminisse cruce*, quoted above in § 1.8), 12 (*non cessasti omnique excruciare modo* you [love] have not stop tormenting me in every way) and Calpurnius, Decl. 49 in which a son suspects his father of adultery with his daughter-in-law (whom the son had killed when found in the act of adultery; he had not killed her lover whose head had been covered). The son, in his defense against a charge of murder, argues “The adulterer has his own punishment: he is crucified by his conscience, he is tormented by shame, and, if for the time being he has gotten off because he was disguised, at any rate eventually his bad character will track him down” (*Habet adulter poenam suam: cruciatur conscientia, pudore torquetur, et, si interim tectus evasit, inveniet illum postremo vel fama*). Trans. of Sussman, Declamations, 87. The case of the slave who falls in love with his prostitute/owner who then wants him crucified also appears in Fortunatianus, *Ars Rhetorica* 1.19 (Rhetores Latini Minores, ed. C. Halm; Leipzig 1863, 96).

*est et in crucem latus. filius divitis fert rogationem, ut imperium transferatur ad pauperem. pauper contradicit.*³⁶⁸

The general's son argues that it is time for the poor man to put down his stylus (for wax tablets) and take up the sword. There is little (no) evidence that the Romans ever crucified a general for losing a battle, but the Roman writers insisted that it was a Carthaginian practice.

2.21 Apuleius of Madaurus (born ca 125)

Apuleius's well-known novel, the *Metamorphoses* or the *Golden Ass*, comprises the adventures of Lucius who is transformed into an ass after becoming too curious about the mysteries of witchcraft. The image of crucifixion appears throughout the narrative in various forms. When a merchant (Aristomenes) sees his companion, Socrates, murdered one night by two Thessalian witches, he is aware that he himself will be accused of the deed, "undoubtedly a candidate for an appointed cross" (*certe destinatae iam cruci candidatus*).³⁶⁹ When the porter would not open the doors of the barn, he thinks to himself:

And then I recollected truly that the good Meroes [a witch] had not because of mercy spared my throat, but with cruelty had preserved me for the cross.

*Ac recordabar profecto bonam Meroen non misericordia iugulo meo pepercisse, sed saevitia cruci me reseruasse.*³⁷⁰

In Hypata, Lucius (the narrator) kills three bandits and is put on trial for murder, actually a jest by the town. The judges threaten to torture him to find out the truth:

There was no delay, for by Greek custom fire and the wheel, then all varieties of lash were brought in. My sorrow increased very much, indeed it doubled, because I would not be allowed to die un mutilated. But the old woman whose wailing had disturbed all, said, "First, most excellent citizens, before you fix/nail this bandit, murderer of my children, to the cross, let the bodies of the slain be uncovered ...

*Nec mora, cum ritu Graeciensi ignis et rota, tum omne flagrorum genus inferuntur. Augetur oppido immo duplicatur mihi maestitia, quod integro saltim mori non licuerit. Sed anus illa quae fletibus cuncta turbauerat: "Prius," inquit "optimi ciues, quam latronem istum miserorum pignorum meorum peremptorem cruci affigatis, permittite corpora necatorum reuelari ..."*³⁷¹

Lucius and his lover Photis, slave of his friend Milo who is married to the witch Pamphile, learn too much about her magic. Photis tells him about a

³⁶⁸ Calp. Decl. 50. Trans. of Sussman, *Declamations*, 87.

³⁶⁹ Apul. Met. 1.14.2. The text used below is from H. van Thiel, *Der Eselsroman: II. Synoptische Ausgabe*, Zet. 54/2, Munich 1972.

³⁷⁰ Apul. Met. 1.15.6.

³⁷¹ Apul. Met. 3.9.1-3

love potion Pamphile is preparing to attract a young Boeotian male. The sorceress gathers together material for her magic recipe:

She began by setting up her dread laboratory with the usual apparatus, all kinds of spices and [metal] plates written in unknown languages, lost possessions from wrecked ships, and exposed members of corpses of those who had been mourned or even placed in tombs; here noses and fingers, there nails covered in the flesh of those who had been suspended [i.e., crucified]; there the preserved blood of those who had been murdered and maimed skulls torn from the teeth of wild beasts.

*Priusque apparatu solito instruit feralem officinam, omne genus aromatis et ignorabiliter lamminis litteratis et infelicium nauium durantibus damnis, defletorum, sepultorum etiam, cadauerum expositis multis admodum membris; hic nares et digiti, illic carnosi clauipendentium, alibi trucidatorum seruatus cruor et extorta dentibus ferarum trunca caluaria.*³⁷²

The mention of the nails of the crucified indicates that they were not impaled but rather fixed to the crosses by the members of their bodies. This also implies that the other mention of “crosses” in the text refer to crucifixions and not impalements. Nails and crosses are associated in Apuleius’s concept of the Roman practice of crucifixion.

The group of bandits who robbed Milo’s house and stole Lucius meet another group who had attempted to rob a home in Thebes owned by a rich miser named Chryserus. Their leader Lamachus came to grief when he put his hand through the keyhole:

But Chryserus, clearly the most worthless of all bipeds, was watching and perceiving each thing, maintaining a light step and a determined silence, gradually crept along, and with a large nail suddenly drove his hand into the panel of the door using a strong blow and leaving him fatally riveted as a living bar [*patibulum*] to the door went up to the roof of his hovel;

*Sed dudum scilicet omnium bipedum nequissimus Chryseros uigilans et singula rerum sentiens lenem gradum et obnixum silentium tolerans paulatim adrepi, grandique clauo manum ducis nostri repente nisu fortissimo ad ostii tabulam offigit et exitiabili nexu patibulum relinquens gurgustoli sui tectum ascendit ...*³⁷³

The word *patibulum* is a pun on the bar that secures the double panels of a door and the beam placed on the shoulders of individuals who are to be crucified, according to Ben L. Hijmans. An alternative translation using an emendation is: “leaving him “patibulated” [crucified] by that deadly bond went up to the roof of his hovel.” *patibulatum* is a rare word and is a scholarly emendation of *patibulum*, which occurs in the MSS.³⁷⁴ Its only other certain occur-

³⁷² Apul. Met. 3.17.4-5.

³⁷³ Apul. Met. 4.10.3-4,

³⁷⁴ Vulcanius perhaps made the emendation. The codices actually have *patibulū*. Cf. the textual note in Apuleius, *Les metamorfosis*, vol. 1, ed. M. Olivar, Barcelona 1929, 72 app. critic. and see the intro. § 3.1.1 where Hijmans presents his translation leaving the *patibulum* of the MSS: “and leaving him fatally riveted as a living bar to the door.”

rence is in Plautus and perhaps in the *lex Puteolana*.³⁷⁵ The text also illustrates the close association of nails and crosses in the Roman concept of crucifixion.

Lucius and a young woman who has been captured by the bandits, Charite, attempt to escape but are caught, and the bandits plan their punishment:

And, as is natural, in that boisterous crowd there were various opinions: the first proposed that the young woman should be burned alive, the second recommended that she be thrown to wild beasts, the third asked that she be fixed to the *patibulum*, the fourth advised that she be torn in pieces³⁷⁶ by torture.

*Et utpote in coetu turbulento uariae fuere sententiae, ut primus uiuam cremari censeret puellam, secundus bestiis obici suaderet, tertius patibulo suffigi iuberet, quartus tormentis excarnificari praeciperet ...*³⁷⁷

In this text *patibulum* is used *pars pro toto* (part for the whole) – that is, the word for the horizontal bar stands for the entire cross. Another bandit persuades them not to be overly “cruel” (*saevire*): do not summon wild beasts or crosses or fire or tortures and even the quick shadows of an appointed death (*nec feras nec cruces nec ignes nec tormenta ac ne mortis quidem maturatae festinas tenebras accersere*).³⁷⁸ His recommendation is, instead, that the ass be killed and the young woman sewed inside with the exception of her head:

So indeed both will endure all that you have correctly decreed: the ass the death which he long ago merited; she, when the worms tear her members, will be morsels for wild beasts; and she will endure the scorching heat of fire when the sun by excessive heat sets the belly [of the ass] on fire; and she will endure the torment of the *patibulum* when the dogs and vultures drag out her innermost organs.

*Sic enim cuncta quae recte statuistis ambo sustinebunt, et mortem asinus quam pridem meruit, et illa morsus ferarum, cum uermes membra laniabunt, et ignis flagrantiam, cum sol nimis caloribus inflammabit uterum, et patibuli cruciatum, cum canes et uultures intima protrahent uiscera.*³⁷⁹

In this text the image is of a crucified individual whose entrails are torn while the victim (the young woman) hangs on the cross. It is important for the interpretation of the entire textual segment that the narrator is willing to interchange *patibulum* (horizontal bar) with *cruces* (crosses), indicating that at least Apuleius used the first word *pars pro toto*. The use of the *patibulum* rules out impalement from Apuleius's concept of crucifixion.

Later in the narrative Lucius tells the story of the murderous stepmother who fell in love with her stepson. When he refused her advances she decides to poison him and uses a slave to buy the poison from a physician. The

³⁷⁵ Pl. Mos. 56, chapt. 5 § 1.4.

³⁷⁶ Cp. the similar use of the verb in Sen. Ep. 24.14.

³⁷⁷ Apul. Met. 6.31.1.

³⁷⁸ Apul. Met. 6.31.3.

³⁷⁹ Apul. Met. 6.32.1.

woman's own son takes the purported poison instead and apparently dies. When the father returns from a trip, the stepmother accuses her stepson of poisoning her child. In court the father accuses his own son, and the judges are ready to vote for a capital penalty (the sack, *culleus*).³⁸⁰ But the physician testifies against the slave and calls him both *cruciarus* (one who deserves crucifixion, a gallows-bird) and *furcifer* (fork-bearer, gallows-bird).³⁸¹ Finally the physician reveals that he had given the slave a sleeping potion, and the son is discovered to be alive. The father's son is freed and "the slave is fixed to a true *patibulum*" (*seruus uero patibulo suffigitur*). Again this indicates that for Apuleius the threat of *cruciarus* (deserving of crucifixion) is identical with the punishment referred to by *patibulum* and that *patibulum* is a "part for the whole" usage.

2.22 Sextus Pompeius Festus (late second century scholar)

Festus has already been quoted above, but there remains a mysterious fragment from a play, apparently of Naevius called the *Nautae* (the sailors).³⁸² In it occurs a discussion of women's garments.

Lucilius: The *supparum* [a woman's garment, a shawl perhaps] is said to be a linen garment belonging to a young woman because it is also called an undertunic.

Titinius in the Fullonia (Fullers) --- everything which --- *supparum* --- Naevius in the *Punic War*.

And in the *Sailors* dress consecrated? now are *suppari* ... even a cross --- a young woman ---

Afranius says, "I am not a young woman if I am not clothed with a *supparum*."

Lucilius: *Supparus* <puellare dicebatu>r vestimen<tum lineum, quod et s>ubucula ap<pellabatur.

Titinius i>n Fullonia: --- omne quod --- <sup>parum puni--- ---cat Naevius de <bello Puni>co.

Et in Nautis: --- <v>estem consec--- --- nunc *supparos* ---na iam *crucem* ---detur puella--- - -- <Afra>nus ait: "Puella <non sum, supparo si in>duta sum."383

A. E. Housman has commented on the confusion of *siparum* (sail) and *supparus*.³⁸⁴ One of the scholiasts to Lucan explains some of the difficulties of the garment:

Suppara: A *supparum* a kind of vestment, which is commonly called *camisia* (linen shirt or night gown). Likewise it is also an undergarment. *Supparum* is a linen garment belonging to a young woman because it is also an undertunic. Afranius is reported to have said, "I am not a young woman if I am not clothed in a *supparum*." It is a garment that restricts the shoulders lest the breasts strike each other. An old garment is ?

³⁸⁰ Apul. Met. 10.8.1.

³⁸¹ Apul. Met. 10.7.7 (*cruciarus*), 10.9.1 (*furcifer*), 10.12.4 (*patibulo suffigitur*).

³⁸² Cf. § 1.5 above.

³⁸³ Fest. (BiTeu 406,8-21 Lindsay).

³⁸⁴ A. E. Housman, *Siparum and Supparus*, CIQ 13 (1919) 149-52, esp. 151-2.

*SUPPARA supparum est genus vestimenti, quod vulgo camisia dicitur; idem est et interula. Supparum vestimentum puellare lineum, quod et subucula, id est camisia, dicitur Afranius "puella non sum nisi supparo induta sum." Est vestis, quae restringit humeros, ne repugnent papillae. Genus vestis tesa (stola?).*³⁸⁵

The biggest mystery in the text is the appearance of the word "cross." Lucius Afranius, author of *fabula togata* in II B.C.E., clearly believed women should wear the *supparum*.³⁸⁶ One emendation of Otto Ribbeck for the line from the *Nautae* is at *nunc supparos [appellamus uela li]na iam crucem [expansa]*, which presumably means something like "we call *suppari* linen sails that are spread out on the cross."³⁸⁷ Here the cruciform shape is the most natural interpretation, and Tertullian's imagery of an upright shape with the *antenna* ("yard arm") as the horizontal member of the cross is appropriate.³⁸⁸ This is the confusion of meaning between *siparum* (sail) and *supparum* (the garment) that Housman argued against, but it may appear here.

2.23 Lucius Annaeus Florus (Antonine era)

Florus includes the legend of Regulus in his account of the first Punic War, but is agnostic about how he died:

For, contrary to the instructions of the enemy, he expressed an opinion against making peace or consenting to an exchange of prisoners. His voluntary return to his enemies and his final sufferings, whether in prison or on the cross, in no way sullied his dignity; nay, rendered by all this only the more worthy of admiration, what did he do but triumph victorious over his victors and, since Carthage had not yielded, over Fortune herself?

*quippe diversa quam hostis mandaverat censuit, ne pax fieret nec commutatio captivorum reciperetur. sed nec illo voluntario ad hostis suos reditu nec ultimo sive carceris seu crucis supplicio deformata maiestas, immo his omnibus admirabilior.*³⁸⁹

The legend was one of Rome's most popular, apparently.

Florus describes the war waged in Germany by Tiberius's generals against the Cherusci in particular who had crucified some Roman centurions. According to Florus, Tiberius's son Drusus was sent.

Next he attacked simultaneously those powerful tribes, the Cherusci, Suebi and Sicambri, who had begun hostilities after crucifying twenty of our centurions, an act which served as

³⁸⁵ Schol. in Luc. 2.364 (1.122 Cavajoni). *Tesa* in Ducange's dictionary (s.v.) is a measure of "sex pedum" (six feet). A mediaeval word.

³⁸⁶ P. G. M. Brown, *Afranius, Lucius*, ³OCD, 33.

³⁸⁷ *Scaenicae Romanorum poesis fragmenta*. vol. I. *Tragicorum Fragmenta*, ed. O. Ribbeck, Bi Teu, Leipzig 1871, 15.

³⁸⁸ Tertullian *Iud.* 10.7 *nam et in antenna navis quae crucis pars est hoc extremitates eius vocantur —, unicornis autem medio stipite palus*. Cf. intro. § 3.4.

³⁸⁹ Flor. *Epit.* 1.18. (olim 2.2.24-5 [L. Annaei Flori Quae Exstant, ed. H. Malcovati, Rome 1938, 53,19-54,4]), trans. of Florus, *The Epitome of Roman History*, LCL, ed. and trans. E. S. Forster, Cambridge, MA/London 1929, 85.

an oath binding them together, and with such confidence of victory that they made an agreement in anticipation for dividing the spoils.

*inde validissimas nationes Cheruscos Suebosque et Sygambros pariter adgressus est, qui viginti centurionibus in crucem actis hoc velut sacramento sumpserant bellum, adeo certa victoriae spe, ut praedam in antecessum pactione dividerint.*³⁹⁰

The regular language of crucifixion (*in crucem actis* [brought to a cross]) probably implies the long death of victims like Gavius and not impalement (which is only mentioned by Seneca in two texts using the term *stipes*).³⁹¹

2.24 Marcus Cornelius Fronto (ca 95-ca 166)

Fronto, the orator who carried on a warm correspondence with Marcus Aurelius, retells the story of Polycrates:

But the daughter of Polycrates had previously had a remarkable dream. She had seemed to see her father, raised aloft on an open and conspicuous spot, being laved and anointed by the hands of Jupiter and the Sun. The diviners read the dream as foretelling a rich and happy fortune. But it turned out wholly otherwise. For Polycrates, beguiled by Oroetes the Persian, was seized and crucified [raised to a cross]. And so the dream was fulfilled in his crucifixion [torment] ..

*Sed somnium filiae Polycrati iam ante insigne optigerat. Patrem suum videre sibi visa erat aperto atque edito loco sublimem ungui et lavi Iovis et Solis manibus. Harioli autem laetam et pinguem fortunam portendier somnio interpretati. Sed omne contra evenit. Nam deceptus ab Oroete Perse Polycrates captusque in crucem sublatus est. Ita ei crucianti somnium expeditum...*³⁹²

It seems apparent that the emphasis is on the long suffering on the cross of Polycrates and not an immediate death by impalement.

2.25 Decimus Iunius Iuvenalis (II C.E.)

Juvenal wrote his satires probably in the “second and third decades” of the second century.³⁹³ In a satire on the “(alleged) faults of Roman wives,”³⁹⁴ Juvenal pictures a matron who desires the death of a slave in this conversation with her husband:

³⁹⁰ Flor. Epit. 2.30 (olim 4.12.24 [210,12-6 Malcovati]), trans. of Forster, Florus, 337. On Drusus, and the revolt of the Germans, cf. S. L. Dyson, Native Revolts in the Roman Empire, Hist. 20 (1971) 239-74, esp. 254-5.

³⁹¹ Cf. Hinard/Dumont, Libitina, 117 for frequent uses of this construction.

³⁹² Fro. Parth. 7, trans. of The Correspondence of Marcus Cornelius Fronto with Marcus Aurelius Antoninus, Lucius Verus, Antonius Pius, and Various Friends, vol. 2, LCL, ed. and trans. C. R. Haines, Cambridge, MA/London 1920. Text above from M. Cornelius Fronto, De bello parthico 7 (BiTeu 223,8-14 van den Hout).

³⁹³ S. M. Braund, Juvenal (Decimus Iunius Iuvenalis), ³OCD, 804-5.

³⁹⁴ Braund’s phrase (idem, Juvenal, 805).

"Set up a cross for the slave." "For what crime does the slave deserve punishment? Which witness is present? Who accused him? Listen to the evidence; no hesitation concerning the death of a person is long." "Mad man, is a slave a person?"³⁹⁵ He has done nothing, so be it: this is what I want, so do I judge, let my will be the reason."

"pone crucem seruo." "meruit quo crimine seruius supplicium? quis testis adest? quis detulit? audi; nulla umquam de morte hominis cunctatio longa est."
*"o demens, ita seruus homo est? nil fecerit, esto: hoc uolo, sic iubeo, sit pro ratione uoluntas."*³⁹⁶

The scholiast (perhaps from IV C.E.), on verse 220, writes: *si interrogaveris eam "ob quam causam servum occidis aut quo deferente?," hoc tibi respondet "de nece ingenui nulla est dubitatio: an de servi morte causa quaerenda est? (If you should ask her, "for what cause are you killing the slave or because of whose accusation?"*) She answers you with this, "There's no question of the death of a freeborn person: does the case concerning the death of a slave have to be judicially examined?"³⁹⁷ The wife's legal reasoning recalls the *lex Puteolana* in which an individual can have a slave "privately" crucified, presumably for any reason.³⁹⁸ Gaius, in his *Institutions*, written in II C.E., expresses the basic principle:

Slaves are in the power of their owners. This power belongs to the law of the nations: for among all nations we are able to observe that the power over life and death [as a penalty] belongs to their owners, and whatever is acquired by the slave, is acquired by the owner.

³⁹⁵ Cato the Elder was always suspicious of slaves' harmony (Plut. Cat. Maj. 21.4) and Sen. (Ep. 47.5) holds that slaves of a former time were ready to die for their owners, but now, when they are treated with disrespect the following occurs: *Deinde eiusdem arrogantiae proverbium iactatur, totidem. Hostes esse quot servos. Non habemus illos hostes, sed facimus* (Finally the saying in allusion to this high-handed treatment becomes current: "As many enemies as you have slaves." They are not enemies when we acquire them; we make them enemies, trans. of Gummere, Seneca, 1.303). Dumont, Servus, 95, refers to Ulpian 43 ad Sabinum in Dig. 50.17.32 As far as concerns the civil law slaves are regarded as not existing, not however, in the natural law, because as far as concerns the natural law all men are equal (*Quod attinet ad ius civile, servi pro nullis habentur: non tamen et iure naturali, quia, quod ad ius naturale attinet, omnes homines aequales sunt*). Digest 4.473. Dumont, *ibid.*, 96-105 argues for the humanity of the Roman slave.

³⁹⁶ Juv. 6.219-23.

³⁹⁷ Scholia in Iuvenalem vetustiora 6.220 (BiTeu 88.9-13 Wessner). Cp. the individual (Vedius Pollio) who ordered, in front of his guest Augustus, that a slave be thrown into a pond of lampreys to be eaten, because he broke a crystal cup. Cf. Sen. Dial. 5.40.2-4 and a similar version in Cassius Dio 54.23.1-6. See Dig. 29.5.1.22 discussed above in § 1.14.

³⁹⁸ The *potestas uitae necisque* (power of life and death) possessed by the paterfamilias in the Republic (a phrase from Gaius Inst. 1.52).

*In potestate itaque sunt serui dominorum. quae quidem potestas iuris gentium est: nam apud omnes peraeque gentes animaduertere possumus dominis in seruos uitae necisque potestatem esse, et quodcumque per seruum acquiritur, id domino acquiritur.*³⁹⁹

The *Collatio* preserves a rescript of Antoninus Pius to Aurelius Marcian, Proconsul of Baetica.

The power of masters over their slaves ought to remain unimpaired, nor should any person's rights be taken from him; but it is in the interest of the masters that relief from cruelty, hunger, or intolerable outrage should not be refused to those who justly cry out.

*Dominorum quidem potestatem in suos seruos inlibatam esse oportet nec cuiquam hominum ius suum detrahi: sed dominorum interest, ne auxilium contra saevitiam vel famem vel intolerabilem iniuriam denegetur his, qui iuste deprecantur.*⁴⁰⁰

The emperor proceeds to order the proconsul to investigate the case of some slaves who have been allegedly mistreated by Julius Sabinus and who have fled to the emperor's statue for sanctuary. He orders them freed if the charges are sustained. Ulpian also recounts a case in which Hadrian relegated a matron named Umbra for five years because of great cruelty toward her slave woman (*ancilla*).⁴⁰¹

Juvenal was put off by a member of the elite playing the part of the robber captain Laureolus:

The nimble Lentulus acted famously the part of Laureolus: deserving, in my judgment, to be really and truly crucified.

*Laureolum uelox etiam bene Lentulus egit,
iudice me dignus uera cruce.*⁴⁰²

The scholiast explains, *Hic Lentulus nobilis fuit et suscepit servi personam in agendo mimo et deprehensus in falso cruci fixus est* (this Lentulus was noble [well-born] and took on the role of a slave in the mime that was to be performed and when he was caught he was attached to a false cross).⁴⁰³ This

³⁹⁹ Gaius Inst. 1.52. Cf. Dumont, Servus, 85, 127-9 (the *tribunal domesticum* during the Republic). According to Gaius Inst. 1.53 (cp. Dig. 1.6.1.2), a constitution of Antoninus forbade owners to kill slaves *sine causa* (without cause). Examples of the tribunal are Cic. Clu. 176-187 and Plut. Cat. Maj. 21.4. See chapt. 5 § 1.4.1.

⁴⁰⁰ Collatio 3.3.2 (Ulpian 8, De officio proconsulis sub titulo de dominorum saeuitia [On the duties of the proconsul, under the heading: concerning the cruelty of owners]), trans. of M. Hyamson, *Mosaicarum et romanarum legum collatio*, Oxford 1913, 71.

⁴⁰¹ Ulpian 8 De officio procons. sub titulo de dominorum saevitia in Collatio 3.3.3-4.

⁴⁰² Juv. 8.187-8. Trans. of Juvenal and Persius, LCL, ed. and trans. G. G. Ramsay, Cambridge, MA/London 1918, 173. See Hengel, Crucifixion, 35. Cp. L. Herrmann, *Laureolus*, in: *Hommages à Henry Bardon*, CollLat 187, ed. M. Renard and P. Laurens, Brussels 1985, 225-34, esp. 229-33) who identifies Lentulus with Cn. Cornelius Lentulus Gaetulicus. Cf. Coleman, *Liber Spectaculorum* 83 n. 2 for this summary of Herrmann's position: "consul in 26, who was commander in Upper Germany 30-9 ... he enacted the role before his departure, i.e. in 29, when L. Rubellius geminus and C. Fufius Geminus were consuls."

⁴⁰³ Schol. in Iuv. 8.187 (147,15-6 Wessner).

may imply that Laureolus was a fugitive slave. Clearly it is a question of crucifixion and not impalement because of the mention of attachment or nailing (*fixus*).

Juvenal remarks upon the different fates of criminals. The context is the thoughts of a perjurer who reflects on the lack of divine providence:

... many commit the same crimes but with different outcomes: that person endured a cross as the penalty of his crime, this a crown.

... *multi*
committunt eadem diuerso crimina fato:
*ille crucem sceleris pretium tulit, hic diadema.*⁴⁰⁴

The interpretation of the scholiast is: *quod omnium diversa sunt fa[c]ta usque adeo, ut in eodem crimine deprehensi alter crucem mereatur, alter imperium* (because the deeds of all people are diverse, to the extent when individuals are caught in the same crime one deserves the cross, another the rule). He gives Romulus as an example (presumably as the killer of Amulius, who had deposed his father from the kingship).⁴⁰⁵ Juvenal describes the fate of the unburied victim of crucifixion:

The vulture hurries from the beast of burden⁴⁰⁶ and from dogs and from what is left on crosses to its young and brings them part of the cadaver.

vultur iumento et canibus crucibusque relictis
*ad fetus properat partemque cadaueris adfert*⁴⁰⁷

The scholiast, commenting on (*partem*) *cadaueris adfert*, has *hominum, nam antiqui crucibus figebant* (of people, for the ancients used to fix them to crosses).⁴⁰⁸ After Constantine's abolition of crucifixion, this comment would have made sense.

2.26 Hyginus (II C.E.)

The author of the *Fabulae*, or more properly the *Genealogiae*, is unknown.⁴⁰⁹ It is a handbook of mythology. In one of the fables, the king of Corinth, Pyranthus, valued highly the skillful player of the lyre, Arion, who in turn became rich by teaching his art throughout the city state. His slaves and some sailors, however, plotted to kill him (*consenserunt famuli cum nautis ut eum interficerent*). On board ship Apollo appeared to him in a dream and told him to sing in his garland and hand himself over to those who came to help

⁴⁰⁴ Juv. 13.103-5.

⁴⁰⁵ Schol. In Iuv. 13.103, 105 (204,25-31 Wessner).

⁴⁰⁶ The OLD, s.v. *iumentum*, notes that this usually refers to beasts of burden (mules and horses as opposed to cattle).

⁴⁰⁷ Juv. 14.77-8.

⁴⁰⁸ Schol. In Iuv. 14.78 (214,14-5 Wessner).

⁴⁰⁹ C. J. Fordyce, Hyginus (3), ³OCD, 735.

him. When the slaves and sailors come to kill him he sings, and dolphins come to hear. The poet in turn throws himself overboard and a dolphin returns him to Corinth. The dolphin dies on the beach when the poet, rushing to return to the king, forgets to help it back into the ocean. When a storm forces the ship to Corinth, the sailors swear that Arion is dead. He makes them take an oath at the Dolphin's monument the next day where Arion is hiding. When they lie again, Arion appears and "the king decreed that they be crucified (fixed or nailed to a cross) at the monument of the dolphin" *quos rex iussit ad delphini monimentum crucifigi*).⁴¹⁰

In a fable about a tyrant (Dionysius of Sicily), Hyginus describes the judgment that Moerus, who was caught in an assassination attempt should be crucified (*quem rex iussit crucifigi*).⁴¹¹ Dionysius let Moerus attend his sister's wedding and took Moerus's friend Selinuntius in pledge. When Moerus was prevented from returning, Dionysius ordered Selinuntius crucified (*Phalaris autem Selinuntium crucifigi cum iuberet*), and he is led to the cross (*rex iubet duci Selinuntium in crucem*).⁴¹² Moerus's last minute return saves both of them.

2.27 Porphyrius (234-ca 305)

The philosopher Porphyry may have preserved some oracles about the death of Christ. It is unlikely, in any case, that Augustine is guilty of fiction even if Porphyry is responsible for the oracle, which Augustine found in Porphyry's *De philosophia ex oraculis haurienda*.

For in the books, which he calls *Philosophy from Oracles*, in which he described and put in writing the responses (oracles) as if inspired of matters pertaining to philosophy; so, for example, I will set down his words, as they have been translated from Greek into Latin. "Being asked, he said, which god he could placate to call his wife back from Christianity, Apollo responded with these verses." Thus the words themselves are ostensibly from Apollo: "You might have a better chance of writing imprinted letters in water or of inflating on light wings of a bird and flying through the air than you would have of recalling the sense of a polluted and impious wife. Let her continue in whatever manner she wishes in her empty delusions and let her continue to lament, singing of a god dead in his delusions, who was destroyed by judges who decided correctly, and in public the worst death – bound with iron – killed him."

nam in libris, quos ex λογίων φιλοσοφίας appellat, in quibus exequitur atque conscribit rerum ad philosophiam pertinentium uelut diuina responsa, ut ipsa uerba eius, quem ad modum ex graeca lingua in latinam interpretata sunt, ponam: "interroganti, inquit, quem deum placando reuocare possit uxorem suam a Christianismo, haec ait uersibus Apollo." deinde uerba uelut Apollinis ista sunt: "forte magis poteris in aqua inpressis litteris scribere aut adinflans leues pinnas per aera auis uolare, quam pollutae reuoces impiae

⁴¹⁰ Hyg. Fab. 194.8 (BiTeu 165,27-8 Marshall).

⁴¹¹ Hyg. Fab. 257.4 (186,13-4 Marshall).

⁴¹² Hyg. Fab. 257.7 (187,23-4.27 Marshall).

uxoris sensum. pergat quo modo uult inanibus fallaciis perseuerans et lamentari fallaciis mortuum deum cantans, quem iudicibus recta sentientibus perditum pessima in speciosis⁴¹³ ferro uincta mors interfecit."⁴¹⁴

This is a reference to the nails used in crucifixion and indicates that Porphyry's conception of crucifixion rules out impalement. Lactantius transmits an oracle that may be one from Apollo Didyma:

Therefore when the Milesian Apollo was asked whether he was god or human, he responded in this way:

He was mortal according to the flesh, wise in miraculous works,
But condemned by Chaldaean judges,
Fastened with nails to stakes, he accomplished a bitter end.

propterea Milesius Apollo consultus utrumne deus an homo fuerit hoc modo respondit,
θνητὸς ἔην κατὰ σάρκα, σοφὸς τερατόδεσιν ἔργοις,
ἀλλ' ὑπὸ Χαλδαίοισι δικασπολίσιν αλώσας,⁴¹⁵
γομφῶθεις σχολόπεσσι πικρὴν ἀνέπλησε τελευτήν.⁴¹⁶

The oracle also assumes the use of nails in the crucifixion of Jesus. Joseph Fontenrose states that Lactantius's oracle is "surely a pious Christian invention."⁴¹⁷ Aude Busine, on the other hand, accepts it as authentic in her investigation of the oracles of Apollo.⁴¹⁸ One reason in favor of its authenticity is that Lactantius in this section of book four of his *Institutes* is arguing for the double nature of Christ, something which this oracle fundamentally lacks. It only emphasizes Christ's human nature. The mention of stakes implies that the oracle assumes a Tau-shaped cross or something similar.

⁴¹³ This expression has been translated variously: "prime of life" (Hengel, Crucifixion, 4), and "hideous fashion" (Augustine, City of God, trans. H. Bettenson, Harmondsworth et al. 1976, 885). Neither translation seems justified by the lexicons (cf. OLD, Lewis and Short, and Blaise, s.v.). Cp. Sen. Ep. 22.1 *occupationibus speciosis et malis* (showy and bad preoccupations). G. Wolff, Porphyrii de philosophia ex oraculis haurienda librorum reliquiae, Berlin 1856, 184 conjectures ἐν ἐμφανέεσσι (on a hill) as the original Greek text. He also mentions A. Nauck's hypothesis (Kritische Miscellen, Zeitschrift für Alterthumswissenschaft N.S. 13 [1855] 110-120, 272-278, here 120 [non vidi]): Augustine found ἐν εἰδέεσσι in the Greek text that was perhaps a corruption of νηλῆς τε (and pitiless).

⁴¹⁴ Aug. Civ. 19.23 (CChr.SL 48 690,5-17 Dombart/Kalb = BiTeu Porphyrii Fragmenta, 343F Smith). Cp. Cook, Interpretation of the NT, 113-4.

⁴¹⁵ Wolff conjectures ἀλωκώς here, presumably because of the meter (Porphyrii de philosophia ex oraculis, 185).

⁴¹⁶ Lact. Inst. 4.13.11.

⁴¹⁷ J. E. Fontenrose, Didyma. Apollo's Oracle, Cult, and Companions, Berkeley/LA 1988, 222

⁴¹⁸ A. Busine, Paroles d'Apollon. Pratiques et traditions oraculaires dans l'Antiquité tardive (II^e-VI^e siècles), Leiden 2005, 227-8 (perhaps issued during the Decian persecution, these verses produced by the Milesian priests aided them in their fight against the advancement of Christianity), 388.

3 Writers after Constantine

3.1 Marcus Iunian(i)us Iustinus (II-IV CE.)

Justin makes frequent references to crucifixion in his epitome of Pompeius Trogus's *Philippic Histories*. He retells a story from Herodotus in which the Scythians go off to war. Their wives, despairing of their husband's return, marry their slaves. When the men return, the slaves go to war with them, but the husbands decide to fight with rods and whips instead of other weapons.⁴¹⁹

Those who could be captured, expiated their punishments by crucifixions. The women also, conscious of their wrong-doing, finished their lives, partly by the sword, and partly by hanging.

*Quicumque capi potuerunt, supplicia crucibus luerunt. Mulieres quoque male sibi consciae partim ferro, partim suspendio vitam finierunt.*⁴²⁰

The slaves in Justin's account died by the usual Roman penalty that slaves suffered. When Pausanias assassinated Philip of Macedon, his divorced wife Olympias came to the corpse of the assassin:

She, informed of the murder of the king, ran to the funeral procession on the pretence of fulfilling her duty, and placed a golden crown that same night on the head of Pausanias who hung on a cross, which no one else but she could have dared to do as long as a son of Philip remained alive. After a few days, when the corpse of the murderer had been unfasted, she burned it over the remains of her husband ...

*Ipsa deinde audita regis nece cum titulo officii ad exequias cucurrisset, in cruce pendentis Pausaniae capiti eadem nocte, qua venit, coronam auream inposuit, quod nemo alius audere nisi haec superstite Philippi filio potuisset. Paucos deinde post dies refixum corpus interfectoris super reliquias mariti cremavit ...*⁴²¹

In Diodorus, Pausanias was stabbed (συγκεντήσαντες ἀνεῖλον).⁴²² Justin, however, does not make it fully clear whether he thinks Pausanias was killed by crucifixion or not (i.e., whether it was a pre-mortem or post-mortem crucifixion).

Justin recounts a legend in which the slaves of Tyre revolted and killed their masters. Later Alexander took revenge:

Thus Alexander the Greek when, after an interval of time, he was waging war in the east, as an avenger of the public security, after the city was conquered, fixed/nailed all of them to crosses in memory of the old massacre ...

⁴¹⁹ Herodotus 4.1-4, and cp. P. A. Hunt, *Slaves, Warfare, and Ideology in the Greek Historians*, Cambridge 1998, 51, who believes the story tells more about Herodotus and his sources than the battle itself. Herodotus mentions no penal suspensions. Justin's work may well date to the late second century or early third. Cf. Justin, *Epitome of the Philippic History of Pompeius Trogus*, I, trans. J. C. Yardley, comm. W. Heckel, Oxford 2011, 8-13.

⁴²⁰ Iustinus Epit. 2.5.6-7.

⁴²¹ Iustinus Epit. 9.7.10-11.

⁴²² Diodorus 16.94.4.

*Itaque Alexander Magnus, cum interiecto tempore in Oriente bellum gereret, velut ultor publicae securitatis, expugnata eorum urbe omnes, qui proelio superfuerant, ob memoriam veteris caedis crucibus adfixit; ...*⁴²³

The narrative of Alexander's crucifixion of the Tyrians appears frequently.

After recounting the defeat of a Carthaginian general, Malchus (fl. 580-550), in Sardinia, the soldiers besieged Carthage because they had been exiled.⁴²⁴ Justin describes Malchus's subsequent execution of his son Cartalo. The son had appeared before the camp in the gold and purple garb of a priest after having performed priestly offices (*publicae religionis officia*) before those of private duty (*privatae pietatis*). His father had sent for him after he returned from Carthage, and the son had chosen to fulfill the "duties of public religion" first. This and the son's clothing angered Malchus.⁴²⁵

Thus he commanded that he be fixed to a very high cross with his adornment in view of the city.

*Atque ita eum cum ornatu suo in altissimam crucem in conspectu urbis suffigi iussit.*⁴²⁶

The comment on the height of the cross is striking.⁴²⁷

Justin tells a narrative of a Hanno of Carthage's plot (ca 360 B.C.E.) to kill the Senate and assume power.⁴²⁸ He shut himself up in a fortress.

There while stirring up the Africans and the king of the Moors, he was taken; being beaten with rods, his eyes were put out, his hands and legs broken, as if punishments had been demanded of every single member and he was put to death in view of the people; his corpse, lacerated with scourging, was fixed to a cross.

*Ibi dum Afros regemque Maurorum concitat, capitur virgisque caesus effossis oculis et manibus cruribusque fractis, velut a singulis membris poenae exigenterentur, in conspectu populi occiditur; corpus verberibus lacerum in crucem figitur.*⁴²⁹

This is a post-mortem crucifixion, but the prior tortures are Roman. Justin describes the Carthaginians' execution of one of their generals, Bomilcar, for treason after their defeat in Sicily by Agathocles (ca 308)⁴³⁰:

After this critical situation in the battle so much desperation was inflicted on the Carthaginians, that if in Agathocles' army a sedition had not arisen, Bomilcar, the *sufes*⁴³¹ of the Carthaginians, would have gone over to him with his army. For this crime he was fixed to

⁴²³ Iustinus Epit. 18.3.18.

⁴²⁴ Cf. H. H. Scullard, Malchus (1), ³OCD, 915.

⁴²⁵ Iustinus Epit. 18.7.7-14.

⁴²⁶ Iustinus Epit. 18.7.15.

⁴²⁷ Cp. Hengel, Crucifixion, 40 n.5 and the index below s.v. height.

⁴²⁸ R. C. C. Law, North Africa in the Period of Phoenician and Greek Colonization c. 800 to 323 BC, The Cambridge History of Africa. From c. 500 B.C. to A.D. 1050, vol. 2, ed. J. D. Fage, Cambridge 1978, 87-147, esp. 122.

⁴²⁹ Iustinus Epit. 21.4.7.

⁴³⁰ H. J. W. Tillyard, Agathocles, Cambridge 1908, 152-3.

⁴³¹ An annual magistrate.

the *patibulum* in the middle of the forum by the Carthaginians, that the same place might be the monument of his punishment that before had been the [architectural] ornament of his honors.

*Hoc certaminis discrimine tanta desperatio inlata Poenis est, ut, nisi in exercitu Agathoclis orta seditio fuisset, transiturus ad eum Bomilcar, rex Poenorum, cum exercitu fuerit. Ob quam noxam in medio foro a Poenis patibulo suffixus est, ut idem locus monumentum suppliciorum eius esset, qui ante fuerat ornamentum honorum.*⁴³²

Carthage wasn't finished with Bomilcar, however:

But Bomilcar with great spirit bore the cruelty of the citizens, to the point that from the high cross as from a tribunal he spoke against the crimes of the Carthaginians ...

*Sed Bomilcar magno animo crudelitatem civium tulit, adeo ut de summa cruce veluti de tribunali in Poenorum scelera contionaretur ...*⁴³³

This text indicates clearly that *patibulum* is sometimes used *pars pro toto* (part for the whole) for *crux* and that the crucifixion was a slow death (because of his speech). The text illustrates Justin's concept of crucifixion.

Justin describes a war between Antiochus III and Ptolemy Philopator. Ptolemy, after putting to death his wife and sister Eurydice, let Agathocles take power along with the king's lover (and sister of Agathocles), Agathoclea. Their mother also was involved in matters of state, and subsequently Ptolemy died.

But his death was long hidden, while the women were seizing royal money and were attempting to seize the kingdom by initiating an alliance with the most depraved people. When the matter became known, because of a gathering of the multitude, Agathocles was put to death and the women in revenge for Eurydice were fixed to *patibula* (crosses with horizontal members).

*Sed mors eius, dum pecuniam regiam mulieres rapiunt et imperium inita cum perditissimis societate occupare conantur, diu occultata fuit. Re tamen cognita concursu multitudinis et Agathocles occiditur et mulieres in ultionem Eurydices patibulis suffiguntur.*⁴³⁴

The Alexandrians carried out the alleged crucifixions, because after the executions they summoned the Romans to their aid.⁴³⁵

3.2 *Scriptores Historiae Augustae*

Although the author (scriptor) of the *Historia Augusta* was probably from the late fourth century, it describes a number of pre-Constantinian crucifixions in

⁴³² Iustinus Epit. 22.7.8. Cp. Orosius 4.6.32 (who calls him Hamilcar): *Ob quam noxam in medio foro iussu Carthaginiensium patibulo suffixus crudele spectaculum suis praebuit.*

⁴³³ Iustinus Epit. 22.7.9. L. I. C. Pearson believes the source of the crucifixion narrative is the Greek historian Timaeus. Cf. idem, *The Greek Historians of the West*. Timaeus and his Predecessors, Atlanta 1987, 247.

⁴³⁴ Iustinus Epit. 30.2.6-7.

⁴³⁵ Polybius 15.33.7-9 says the women were torn, naked, limb from limb.

the midst of other cruelties practiced by emperors and pretenders. Its historical unreliability in certain cases is well known.⁴³⁶ One of the pretenders, Celsus, emerged during the reign of Gallienus (260-8). A Galliena allegedly killed him.⁴³⁷

Therefore he was made emperor, but on the seventh day of his rule he was killed by a woman named Galliena, a cousin of Gallienus, and so he has scarcely found a place even among the least known of the emperors. His body was devoured by dogs, for such was the command of the people of Sicca, who had remained faithful to Gallienus, and then with a new kind of insult his image was set up on a cross (*crux*), while the mob pranced about, as though they were looking at Celsus himself affixed to a gibbet [*patibulum*].

*quare creatus per quandam mulierem, Gallienam nomine, consobrinam Gallieni, septimo imperii die interemptus est atque adeo etiam inter obscuros principes vix relatus est. corpus eius a canibus consumptum est Siccensibus, qui Gallieno fidem servaverant, perurgentibus, et novo iniuriae genere imago in crucem sublata persultante vulgo, quasi patibulo ipse Celsus videretur adfixus.*⁴³⁸

In this text, *patibulum* is *pars pro toto* (part for the whole) as in Apuleius.⁴³⁹ *Imago* is distinct from *signum* or *simulacrum* (full length statue) in Latin usage.⁴⁴⁰ Consequently, only a bust (upper part of the torso) of Celsus was attached to a presumably small cross with horizontal and vertical components.

3.3 Servius (IV C.E.)

The great commentator on Vergil, Servius, makes several references to crucifixion in his works. With regard to Aeneas's sailors who ask Dido for pardon or grace (*veniam*), Servius writes,

For one earns the benevolence of the divinities, who even though he/she be innocent, asks for grace as if he/she had committed an offense: whence that confession in Terence, "What do you deserve?" "The cross."

*meretur enim benivolentiam numinum qui, licet innocens sit, veniam tamen tamquam peccaverit petit: unde est confessio illa in Terentio "quid meritu's? crucem."*⁴⁴¹

Clearly Servius does not believe that Davus, the slave, is guilty. Servius Auctus, whose comments are probably based on the earlier comments of Donatus, mentions the dogs who did not alert Rome of the invasion of the Gauls in ca

⁴³⁶ Cf. chapt. 2 § 3.16-22, and on the date see chapt. 2 § 3.16.1. See T. D. Barnes, *The Sources of the Historia Augusta*, CollLat 155, Brussels 1978, 13-22 and Cook, *Roman Attitudes*, 3.

⁴³⁷ On Celsus, cf. D. Kienast, *Römische Kaisertabelle. Grundzüge einer römischen Kaiserchronologie*, Darmstadt 2004, 230.

⁴³⁸ SHA *Tyranni Triginta* 29.3-4 (Trebellius Pollio), trans. of Magie, *Historia Augusta*, 3.133.

⁴³⁹ cf. the intro. § 3.1.1.

⁴⁴⁰ Cf. Cook, *Roman Attitudes*, 183.

⁴⁴¹ Serv. A. 1.519 (I, 160 Thilo/Hagen), with reference to Ter. An. 621 (see § 1.3 above).

390/389 or 387/386 B.C.E.⁴⁴² The geese did warn the Romans of the invaders.

For this reason, after that day in which this happened, the dogs who were sleeping and noticed nothing were fixed/nailed to crosses; the geese, adorned with gold and purple, were carried about on litters.

*qua causa postea eo die quo hoc factum est, canes qui tunc dormientes non senserant, cruci suffigebantur, anseres auro et purpura exornati in lecticis gestabantur.*⁴⁴³

It is difficult to evaluate the historicity of this tradition, but the invasion certainly lived on in Roman consciousness as an example of calamity.⁴⁴⁴

Servius Auctus⁴⁴⁵ describes the return of the Spartans after one of their wars against Messene:

But when the victors had returned and had seen the multitude of youth who had been born from the intercourse of slaves and their virgin owners, as some proposed without any distinction based on the children who were the offspring of marriages, they fixed the slaves to *patibula*, strangled the children and drove away the grandchildren.

*sed cum victores reversi essent vidissentque multitudinem iuvenum, qui ex servorum et dominarum virginum concubitu, ut quidam volunt, sine ullo discrimine nuptiarum nati erant, servos patibulis suffixerunt, filios strangulavere, nepotes fugaverunt.*⁴⁴⁶

Presumably the story is legendary, but it shows Servius Auctus's use of *patibulum* as a synecdoche (*pars pro toto*) for cross.

Servius Auctus also retells the story of Tarquin's "crucifixion" of the dead bodies of those who would not work in the sewers in a comment on the "knot [noose] of degrading death" (*nodum informis leti*), with which Amata hung herself, when she thought Turnus had been killed in battle with Aeneas. Servius precedes the remark of the expanded tradition of Servius by noting that in the "pontifical books" one who has ended his or her life by a noose is cast out unburied (*sane sciendum quia cautum fuerat in pontificalibus libris, ut qui laqueo vitam finisset, insepultus abiceretur*). Servius Auctus continues:

⁴⁴² Cf. CIL VI, 1272 = InscrIt 13.3.11, Liv. 5.40.7-10, 42.1-2. Polybius 1.6.1-4 dates the invasion to 387/86 B.C.E. by correlating it with the Peace of Antalcidas (Persia and Greece). Liv. 5.32.6-9, 5.39.1-42.8 dates the event to 390/89 B.C.E.

⁴⁴³ Serv. A. 8.652 (II, 293 Thilo/Hagen). Plin. Nat. 29.57 (cf. intro § 3.5) where a dog is nailed annually to a *furca*. See intro. § 3.7 on ill omened trees. In Nat. 10.51 mention is made of the geese's reward but not the dogs' punishment. Plut. De fort. Rom. 12, 325D (κύων μὲν ἀνεσταυρωμένος, a dog's crucifixion), Lydus Mens. 4.114 (destruction of the dogs, no mention of crucifixion), Aelian De natura animalium 12.33 (annual punishments of dogs). M. Radin, The Lex Pompeia and the Poena Cullei, JRS 10 (1920) 119-30, esp. 124 rejects the historicity of the ceremony, however M. Corsano, "Sodalitas" et gentilité dans l'ensemble lupercal, RHR 191 (1977) 137-58, esp. 154 accepts its existence.

⁴⁴⁴ Cf. Aug. Civ. 3.31.

⁴⁴⁵ On Servius Auctus and its basis (Donatus's comments), see J. F. Mountford, P.G. Fowler and D. P. Fowler, Servius, ³OCD, 1395-6.

⁴⁴⁶ Serv. A. 3.551 (I, 436 Thilo/Hagen).

But Cassius Hemina says, “Tarquin the Proud, when he forced the people to construct sewers and when many had hung themselves over this injury, commanded that their corpses be attached to crosses. At that time it was first held to be shameful to take one’s life.”

*Cassius autem Hemina ait, “Tarquinius Superbum, cum cloacas populum facere coegisset, et ob hanc iniuriam multi se suspendio necarent, iussisse corpora eorum cruci affigi. tunc primum turpe habitum est mortem sibi consciscere.”*⁴⁴⁷

Cassius Hemina was one of the first substantial Roman historians.⁴⁴⁸ Although the legendary “crucifixions” were post-mortem, they indicate that Cassius believes the punishment extended into the ancient past in some form. In a comment on *Eclogue* 8.55, Servius Auctus repeats the story of Arion told by Hyginus. The king asks the sailors and slaves where Arion is:

When the king asked them about Arion, and they lied that he was dead, he commanded that Arion be led forth and that they themselves be fixed [to crosses].

*quos cum rex de Arione requisisset et illi eum mortuum mentirentur, produci Arionem iussit, <ipsos autem cruci> adfigi.*⁴⁴⁹

The scholarly conjecture (to crosses) makes good sense, because of the parallel in Hyginus’s fable and because of the use of *adfigere* in numerous texts of crucifixion.

3.4 Ps. Probus (II-IV C.E.)

Ps. Probus, in his commentary on Vergil’s reference to the birds of the Caucasus and Prometheus’s theft (*Caucaseasque refert volucris furtumque Prometheus*) in the *Eclogues*, specifies the instrument of punishment:

Being vexed about it [the theft] Jupiter fixed him on a *patibulum* with metal plates and summoned a vulture, which devoured his heart.

*Id aegre ferens Iuppiter in monte Caucaso eum lamnis patibulo adfixit et adhibuit vulturem, qui cor eius exederet.*⁴⁵⁰

Thus the story is transformed into a scene of crucifixion. Fetters and crosses belong together in his understanding of the practice.

⁴⁴⁷ Serv. A. 12.603 (II, 626 Thilo/Hagen) = Peter, ²HRR, Cassius Hemina frag. 15* (1.103).

⁴⁴⁸ Cf. G. Forsythe, *Some Notes on the History of Cassius Hemina*, *Phoenix* 44 (1990) 326–44, esp. 326, 333 (the *Histories* were published ca 120 B.C.E.). Cp. Peter ²HRRel, clxv–clxxiii, 98–111 (the fragments). Cf. also Liv. 1.56.2 (no mention of suicide), Dionysius Halicarnassus 4.44 (no mention of suicide).

⁴⁴⁹ Serv. Ecl. 8.55 (III, 102 Thilo/Hagen). *ipsos autem cruci* is a conjecture of Masvicius.

⁴⁵⁰ Ps. Probus Comm. in Buc. 6.42 (III/2, 345,2–3 Thilo/Hagen).

3.5 *Scholia in Iuvenalem (IV C.E.)*

The scholiast tells the legend of the sons of Brutus (509 B.C.E.) who wanted to open the gates of Rome to Tarquin.

Vindicius is the slave who disclosed that the sons of Brutus wanted to open the gates to Tarquin. When the father brought his sons to the axe [of the executioner], he manumitted his slave as preserver of the country and then fixed him to a cross as an informer against his owners. The matrons mourned over the deed.

*Vindicius servus, qui indicavit filios Bruti Tarquinio portas velle reserare. Quos pater securi ferit, servum autem ut conservatorem patriae manu misit et ut delatorem dominorum cruci adfixit. quod factum matronae planxerunt.*⁴⁵¹

The social status of the crucified man is interesting because he was a *libertus* (freedman).⁴⁵² With regard to the fortune of Croesus (14.328), the oldest manuscript of the *scholia* has:

Never the fortune of Croesus: (He speaks) about Croesus, to whom Solon said, “Look at the end of a long life,” that is, “observe the end of a life.” When he was held by Cyrus and was to be raised to a cross, his son cried out and said, “you are a human, Cyrus, spare a human!”

*Nec Croesi fortuna umquam: Croeson (dicit), cui Solon dixit «ὄρα τέλος μακροῦ βίου», id est definitionem vitae observa. qui cum a Cyro teneretur et in crucem tollendus esset, filius eius exclamavit et dixit “homo es, Cyre, parce homini!”*⁴⁵³

This tradition is only in one of the manuscripts of the *scholia*, which otherwise have:

The famous Croesus is the one to whom Solon said, “Observe the end of a long life.” His son, when he [i.e., Croesus] was defeated at Tralles by Cyrus king of the Persians – a youth who had up to then been mute – when he saw the sword stretched out toward the throat of his father, suddenly cried out, “You (are) human, Cyrus, spare a human.”

*Croesus ille est, cui Solon dixit, ὄρα τέλος μακροῦ βίου. cuius filius, cum ipse Trallibus victus esset [et] a Cyro rege Persarum, adolescens usque id mutus, intentum iugulo patris gladium cum vidisset, subito exclamavit ‘homo (es), Cyre, parce homini!’*⁴⁵⁴

Clearly the traditions of the intended death of Croesus varied. Herodotus claims that Cyrus had Croesus placed on a pyre, but relented of his intention to burn him when Croesus cried out Solon’s name.⁴⁵⁵ The battle was at Sardis

⁴⁵¹ Schol. in Iuv. 8.266 (153,2 Wessner). On the crucifixion of freedmen see J.-J. Aubert, A Double Standard in Roman Criminal Law?, in: *Speculum Iuris*, Roman Law as a Reflection of Social and Economic Life in Antiquity, ed. by J.-J. Aubert/B. Sirks, Ann Arbor 2002, 94-133, esp. 115. Cf. A. Drummond, Iunius Brutus, Lucius ³OCD, 787-8 on Brutus’s alleged responsibility for driving Tarquin from power.

⁴⁵² Cf. other examples of crucifixion of *liberti* in chapt. 2 § 3.2.1, 3.8.2.

⁴⁵³ Schol. in Iuv. 14.238 (225 app. crit. Wessner). This is from MS Φ (Cod. Vatic. 5750 (ol. Bobiensis) s. IV/V (= E Leonis)).

⁴⁵⁴ Schol. in Iuv. 14.238 (225 Wessner).

⁴⁵⁵ Herodotus 1.86-8 (with the help of rain sent by Apollo).

and not Tralles.⁴⁵⁶ Since Croesus ruled Lydia ca 560–546 B.C.E., the encounter with Solon is probably legendary.⁴⁵⁷ The scholiast's version of Solon's epigram appears in several writers of antiquity.⁴⁵⁸

3.6 Firmicus Maternus (337)⁴⁵⁹

Firmicus included a panegyric of Constantine in this work, and it is curious that he does not mention the edict against crucifixion, if Constantine indeed issued one.⁴⁶⁰

And if truly with these (the Sun, Moon and Mercury) Saturn is found, it shows us the method of death. For the person caught in those crimes, because of the severe sentence of the one who inflicts punishment, while fixed to the *patibulum* will be lifted to the cross ... And if the moon located as we said is in opposition to Mars, it will make people caught in planning crimes to be lifted up on a cross.

*Si vero cum his Saturnus fuerit inventus, ipse nobis exitium mortis ostendit. Nam <in> istis facinoribus deprehensus severa animadvertentis sententia patibulo subfixus in crucem tollitur ... Quodsi sic Lunam sicut diximus positam Mars diametra radiatione respexerit, faciet homines <in> sceleratis cogitationibus deprehensos in crucem tolli.*⁴⁶¹

There is a text critical problem with *tollitur*,⁴⁶² but all MSS support a reading in which a person fixed to a *patibulum* is bound to a cross. Here it is clear

⁴⁵⁶ Herodotus 1.81-4.

⁴⁵⁷ Cf. P. N. Ure and S. Hornblower, Croesus, ³OCD, 410 for the versions of Croesus' fate (they do not mention crucifixion) and A. W. Gomme, T. J. Cadoux and P. J. Rhodes, Solon, ³OCD, 1421-2 (who hypothesize that Solon died ca 560/559). Herodotus 1.29-33 describes the encounter of Croesus and Solon (in Sardis ten years after Solon left Athens).

⁴⁵⁸ Diogenes gramm. (II C.E.), Paroemiae 8.51 (Τέλος ὄρα βίου: τοῦτο τὸ ἀπόφθεγμα Σόλων εἶπε Κροίσω), Ausonius (c. 310-394), Ludus septem sapientium 3.55-8 (ὄρα τέλος μακροῦ βίου'), 3.103 ("Spectandum" dico "terminum vitae prius"), Olympiodorus (VI C.E.), In Platonis Gorgiam comm. 48.10 (τοῦτο ἔφη καὶ ὁ Σόλων 'ὄρα τέλος μακροῦ βίου').

⁴⁵⁹ D. S. Potter, Firmicus Maternus, Iulius, ³OCD, 598. T. D. Barnes dates it more precisely to the spring of 337 (Two Senators under Constantine, JRS 65 [1975] 40-49, esp. 40) since Firmicus does not yet know of the death of Constantine (1.pr.7, 1.10.13, 1.10.14) and since Lollianus is consul designate (1.pr.7-8). The horoscope in 2.29.10 is dated variously (Barnes, Two Senators, 41 [14 or 15 March 303], Firmicus Maternus, Mathesis, 3 vols., CUFr, ed. and trans. P. Monat, Paris 1992-97, 1.168 [13 March 303]). The horoscope's subject, who became *praefectus urbi* (prefect of the city) before Constantine died is Ceionius Rufius Albinus (30 Dec. 335 to 10 March 337). Cf. Barnes, *ibid.*, 41-2.

⁴⁶⁰ Firmicus Maternus Math. 1.10.13-4 (BiTeu I, 37,22-38,29 Kroll/Skutsch/Ziegler). Cf. chapt. 5 § 1.10 on this question and J. G. Cook, Crucifixion in the West: From Constantine to Recceswinth, *passim*. The translations are done with reference to those of P. Monat (CUFr Firmicus Maternus I-III).

⁴⁶¹ Firmicus Maternus Math. 6.31.58-9 (II, 164,16-20.24-7 K/S/Z).

⁴⁶² A (Norimbergensis cent. V 60 [1468]) has *tollitur* and D (Vaticanus Palatinus lat. 1418 [XV C.E.]) and N (Neopolitanus V A 17 [XV C.E.]) have *colligitur*. A conjecture used in N. Pruckner's edition (Iulii Firmici Materni ... Astronomicōn Libri VIII, Basel 1551, 179)

that in Firmicus's view, the *patibulum* was attached to the cross, which coheres well with the images in the Puteoli and Palatine graffiti (see figures 5-7, 10). Forgers can expect harsh treatment according to Firmicus:

If the sun is in the horoscope and Mercury is placed with it, and Saturn and Mars are on the descendant and are in opposition to the sun, they will make individuals arrested for the crime of forgery be raised to a cross ...

*Si vero Sole in horoscopo constituto et cum eodem Mercurio collocato, Saturnus et Mars in occasu positi Solem diametra radiatione respiciant, facient in falsi crimine comprehensos in crucem tolli ...*⁴⁶³

Forgery was a constant problem (and temptation) in the Roman economy.

Auriga was deadly for certain people.

If Auriga is found in the descendant of the horoscope [or "nativity"] and if it is attacked by the ray of malevolent planets, the natives, thrown from a quadriga, will be cut in pieces by miserable mutilations, so that with lacerated bodies they might endure the bitter afflictions of death; or struck by lightning they are destroyed by a sudden death, or they are lifted up on a cross or their legs are broken by public punishment.

*Si Auriga in occasu geniturae fuerit inventus, et eum malivolarum stellarum radius impugnet, deiecti quadrigis miseris lacerationibus dissipantur, ut fracto corpore acerba mortis patiantur incommoda, aut fulmine icti repentino mortis opprimuntur occasu, aut tolluntur*⁴⁶⁴ *in crucem, aut crura illis publica animadversione franguntur.*⁴⁶⁵

This is one of the few texts in which *crurifragium* is mentioned with crucifixion, but they are actually two different forms of death.

Andromeda is the source of many difficulties:

If indeed this star is found in the descendant, and malevolent planets view this place, they will make the natives be thrown to wild beasts or be raised to a cross. If the favor of the benevolent planets approaches [is in aspect] with those ordained to be malevolent, the natives will be given to the gladiatorial games, or will be bound by the bonds of perpetual chains.

*Si vero hoc sidus in occasu fuerit inventum, et locum istum malivolae stellae respexerint, facient feris obici aut in crucem tolli. Quodsi sic malivolis ordinatis benivolarum stellarum favor accesserit, facient in ludum dari, vel perpetuis stringi vinculis catenarum.*⁴⁶⁶

Brigands seemingly were a constant problem in the Mediterranean world:

and that of Pescennius F. Niger (Iulii Firmici Astronomicorum libri octo ..., Venice 1499, Liber VI, ee 8 verso) is *crudeliter erigitur* (cruelly raised), which is still quoted occasionally (e.g., Serbat, Les dérivés nominaux, 57). The editio princeps (Iulius Firmicus, De nativitatibus, Venice 1497) has *colligitur*. Pescennius is known for adding many words to the text (cf. Monat, Firmicus, 1.32, Ziegler, Firmicus, 2.xxxii).

⁴⁶³ Firmicus Maternus, Math. 6.31.73 (II 169,4-7 K/S/Z).

⁴⁶⁴ A conjecture of Aldo and K/S/Z. A has *ponuntur* and MSS DN have *puniuntur*.

⁴⁶⁵ Firmicus Maternus Math. 8.6.11 (II, 298,14-20 K/S/Z).

⁴⁶⁶ Firmicus Maternus Math. 8.17.2 (II, 312,9-14 K/S/Z).

Those whose horoscope is in the seventh degree of Cancer will have lumps on their heads ... But if Mars has been in any aspect whatever to the Moon and to the horoscope, the natives will be brigands who act violently with cruel ferocity. These people are either raised to a cross or punished by some other public punishment.

*In parte VII. Cancri quicumque habuerint horoscopum, habebunt in capite tubera ... Quodsi Lunam et horoscopum Mars radiatione aliqua aspexerit, latrocinantes crudeli feritate grassantur. Sed hi aut in crucem tolluntur, aut publica animadversione peribunt.*⁴⁶⁷

Crucifixion was probably a normal punishment for brigands in pre-Constantinian Rome. Presumably Firmicus was unaware of Constantine's decree to end the use of crucifixion, although it probably survived sporadically:

Those who will have the horoscope in the eighteenth part of Libra will be raised to a cross by the command of the emperor or will be tortured in the presence of the emperor, or by the command of the emperor will be suspended but then only when Mars has been found in that region.

*In XVIII. parte Librae quicumque habuerit horoscopum, in crucem iussu imperatoris tolletur, aut praesente imperatore torquetur, aut iussu principali suspendetur, sed tunc cum Mars in ipsa parte fuerit inventus.*⁴⁶⁸

Astrologers uncritically repeated traditions of the past concerning the practice of crucifixion for many centuries, and their material is consequently not good evidence for the continuation of the practice.⁴⁶⁹

3.7 *Anthologia Latina*

The epigrams attributed to Seneca and Petronius are “susceptible neither of proof nor disproof” according to F. R. D. Goodyear.⁴⁷⁰ Nevertheless language and meter indicate a date of composition in I C.E. In one of them, dedicated to hope and its deceptions, a crucified person does not give up. The first line contains this phrase, *spes fallax* (hope is deceitful).

A criminal whose members are stretched out on the infamous beam, hopes to be able to be brought down⁴⁷¹ from the fixed cross.

⁴⁶⁷ Firmicus Maternus Math. 8.22.3 (II, 327, 3-9 K/S/Z).

⁴⁶⁸ Firmicus Maternus Math. 8.25.6 (II, 333,28-334,4 K/S/Z).

⁴⁶⁹ Chapt. 5 § 1.10.7.

⁴⁷⁰ F. R. D. Goodyear, *Minor Poetry*, in: *Latin Literature*, CHCL 2/1, ed. E. J. Kenney, Cambridge 1982, 624-32, esp. 630.

⁴⁷¹ Cf. OLD, s.v. *redeo*, 1a “To come or go back (to a place from which one has set out or to which one is thought of as particularly belonging), return, retire.” It has numerous similar usages. The conclusion is that the individual is already on the cross. Cp. the Italian translation: “Il ribaldo, avvinto le membre all’infame patibolo, / spera di poter scampare all già eretta croce” (the knave bound to the infamous *patibulum*, hopes to be able to the escape the already erected cross) in Seneca, *Epigrammi*, ed. and trans. L. Canali and L. Galasso, Rizzoli

*Noxius infami districtus stipite membra
Sperat et a fixa posse redire cruce.*⁴⁷²

Goodyear's comment on the epigram is that "the indictment of the deceptions of hope (Anth. Lat. 415) labours under an excess of examples (contrast Tib. 2.6.19-28). These faults are perhaps not alien from Seneca. But where are his habitual merits?"⁴⁷³ The individual on the cross is obviously not impaled, but Seneca's view that hope is guilty of deception shows that the victim will probably die on his cross, with his members presumably stretched on a horizontal and vertical components of a Roman cross.

Another poem from the anthology that Hengel uses is probably from the mediaeval period. Barthélemy Hauréau attributed the poem to Hildebert, bishop of LeMans (1056-1133).⁴⁷⁴ More recently A. B. Scott has argued that despite two "non-sacred" uses of *crux* in the poem it should be attributed to Hildebert.⁴⁷⁵ The first example is from a poem dedicated to the faults of an *amica* (female friend) who changed her allegiance to the poet's rival, a young man with many bad characteristics:

Are you suitable for pleasing young women
(You) Who deserved not exile, but the cross?

*dignusne placere puellis,
Qui non exilio sed cruce dignus erat;*⁴⁷⁶

A few lines later, Hildebert expresses this sentiment:

Wealth atones for a crime, every poor individual is condemned⁴⁷⁷ to the cross,
and a multitude of riches thinks about the praises of people.

*Crimen opes redimunt, reus est crucis omnis egenus,
et laudes hominum pensat acervus opum.*⁴⁷⁸

Hildebert's interest in pagan crucifixion is presumably as antiquarian as the classical examples he uses in the poem. But he does seem to be aware that in

1994, 39. This translation implies that the *noxius* has not yet been placed on the cross, but *redeo* seems to imply that the person is already on the cross.

⁴⁷² Anthologia Latina 415.23-4 (BiTeu, 1.321 Buecheler/Riese) = Epigr. § 24 (Gli epigrammi attribuiti a L. Anneo Seneca, ed. C. Prato, Rome 1964, 60,23-24).

⁴⁷³ Kennedy, Latin Literature, 631.

⁴⁷⁴ B. Hauréau, Les mélanges poétiques d'Hildebert de Lavardin, Paris 1882, 182.

⁴⁷⁵ A. B. Scott, The Poems of Hildebert of Lemans. A New Examination, Mediaeval and Renaissance Studies (1968) 42-83, esp. 72-4.

⁴⁷⁶ Anthologia Latina 794.27-8: (BiTeu, 1906, 272 Buecheler/Riese). This is placed among the dubia in PLM 76.27-8 (BiTeu, Poetae Latini Minores, vol. 5, ed. E. Baehrens, Leipzig 1883, 389). The text is from Hildebertus, Carmina, Suppl. 3.27-8, ed. A. B. Scott, Berlin²2001, 58.

⁴⁷⁷ For this use of *reus*, cf. the Vulgate's Matt 26:66 *mortis reus* (condemned to death). This use of *reus* coupled with the punishment for the guilty act is surely post-classical.

⁴⁷⁸ Anthologia Latina 794.35-6: (272 Buecheler/Riese = 58 Scott).

late antiquity, there was a distinction based on social class in the application of the penalty of crucifixion.

3.8 *Acta Pilati*

During Maximin's time a forgery circulated in his dominions with the emperor's approval entitled the *Memoirs of Pilate and our Savior* full of blasphemies against Christ (Πλασάμενοι δῆτα Πιλάτου καὶ τοῦ σωτῆρος ἡμῶν ὑπομνήματα πάσης ἔμπλεα κατὰ τοῦ Χριστοῦ βλασφημίας).⁴⁷⁹ Eusebius writes that they became the sole curriculum of "primary teachers" (γραμματοδιδασκάλους). In Rufinus's translation of the account of the martyrdom of Lucian of Antioch in Nicomedia, there is a reference to the depiction of Jesus' death in the *Acta*.

But neither did he deceive us by his death, for whom after the third day he rose from the dead; not like those accounts which have now been deceitfully written that are contained in the *Acts of Pilate*, but innocent, unstained, and pure he accepted death only for this purpose, that he might vanquish it by rising.

*Sed nec nos sua morte decepit, quibus post diem tertiam resurrexit, non ut ista, qua nunc falso conscribuntur, continent acta Pilati, sed innocens, immaculatus et purus ad hoc solum mortem suscepit, ut eam vinceret resurgendo.*⁴⁸⁰

Torben Christianson dates the forgery to the time when the persecutions "were resumed in November 311."⁴⁸¹ The *Acta* must have maintained that the crucifixion of Jesus was justified.⁴⁸²

3.9 *Hieronymus (347-420)*

Jerome knows of a tradition concerning the Tibareni, a people who lived on the north shore of the Black Sea:

The Tibareni suspended on *patibula* the elderly whom they esteemed highly.

*Tibareni quos dilexerint, senes suspendunt in patibulis.*⁴⁸³

Eusebius on the other hand has a tradition in which they cast their elderly kin off precipices while they were still alive (Τιβαρηνοὶ δὲ ζῶντας

⁴⁷⁹ Eusebius H.E. 9.5.1.

⁴⁸⁰ Ruf. Hist. (Eusebius H.E.) 9.6.3 (GCS Eusebius Werke II/2, 813,36- 815,2 Mommsen/Schwartz). In 1.9.3, Eusebius notes that the *Acta* claimed Jesus was put to death in the fourth consulship of Tiberius, the seventh year of his reign.

⁴⁸¹ T. Christensen, Rufinus of Aquileia and the *Historia Ecclesiastica*, Lib. VIII-IX, of Eusebius, DVSS.HF 58, Copenhagen 1989, 235 (basing the date on 9.5.1).

⁴⁸² W. Horbury, *Jews and Christians. In Contact and Controversy*, Edinburgh 1998, 163 compares the text to b. San. 43a, Origen C. Cels. 2.5, 63 and the text from Porphyry quoted above (Aug. Civ. 19.23).

⁴⁸³ Hier. Iov. 2.7 (PL 23.309).

κατεκρήμνιζον τοὺς ἐγγυτάτω γέροντας), which he takes from Porphyry's *De abstinētia*.⁴⁸⁴ It is possible that Jerome misread κατακρημνίζουσι (cast down) as κατακρημνῶσι (suspend).⁴⁸⁵ Theodoret claims that they gave up the practice Porphyry mentions after they converted to Christianity (Καὶ Τιβαρηνοὶ τοὺς πρεσβύτας κατὰ κρημνῶν βαθυτάτων εἰθικότες ὥθειν, τὸν παμπόνηρον τοῦτον κατέλυσαν νόμον, τῶν εὐαγγελικῶν ἐπακούσαντες νόμων).⁴⁸⁶

3.10 Ausonius (IV C.E.)

Apparently after seeing the painting of the scene in Trier, Ausonius wrote a poem on it which he summarized as “some wives and lovers fixed Cupid to a cross” (*Cupidinem cruci adfigunt mulieres amatrices*) in a letter to his son.⁴⁸⁷

A myrtle-tree is chosen, well known in that sad grove and hateful from the vengeance of the gods. Thereon had Proserpine, once slighted, tormented Adonis, mindful of his Venus. On the tall trunk of this Love was suspended, his hands bound behind his back, his feet tied fast; and though he weeps, they lay on him no milder punishment.

*eligitur maesto myrtus notissima luco,
inuidiosa deum poenis. cruciauerat illic
spreta olim memorem Veneris Proserpina Adonin.
huius in excelso suspensum stipite Amorem
deuinctum post terga manus substrictaque plantis
uincula maerentem nullo moderamine poenae
adficiunt.*⁴⁸⁸

It is unlikely that one can draw firm conclusions about the Romans' use of ropes for crucifixion from this poetic text, which pictures a scene in Hades.⁴⁸⁹

3.11 Caius Iulius Victor (IV C.E.?)

Julius Victor's *Ars Rhetorica* contains the narrative already discussed above in which a father betrays his son.

The question concerns the deed, as in that [rhetorical] controversy: a father and son sought a command; the son prevailed and fought in a battle. He was captured and fixed to a *patibulum*. The father was discovered returning from the enemy with gold; he was accused of betrayal. Here the only contention is the matter of fact.

⁴⁸⁴ Eus. P.E. 1.4.7 = Porphyry *De abst.* 4.21.4.

⁴⁸⁵ T. G. Parkin, *Old Age in the Roman World. A Social and Cultural History*, Baltimore 2003, 432.

⁴⁸⁶ Theodoret *Graec. Affect. Cur.* 9.36.

⁴⁸⁷ Aus. *Cupido cruciatus*. Ep. ad Gregorium (BiTeu 116,3 Prete). For the asyndeton, cf. *Medieval Latin*, ed. K. P. Harrington, rev. J. Pucci, Chicago 1962, 88.

⁴⁸⁸ Aus. *Cupido cruciatus* 56-62 (119 Prete). Trans. of Ausonius, vol. 1, LCL, ed. and trans. H. G. E. White, New York/London 1919, 213.

⁴⁸⁹ Cf. *Oldfather, Supplicium*, 58.

*de re tantum quaestio est, ut in illa controversia: "pater et filius ducatum petierunt: filius praevaluit, aciem commisit, captus est et patibulo affixus. inventus est pater cum auro ab hostibus veniens; reus est proditiōis:" hic enim de facto ambigitur solo.*⁴⁹⁰

In this text, *patibulum* is probably used *pars pro toto* for the entire *crux* (horizontal and vertical structure).⁴⁹¹

3.12 *Consultius Fortunatianus (IV C.E.)*

The precise dates for Fortunatianus are unclear, but Martianus Capella used his work in the 430s. He was probably a contemporary of John Cassian and C. Julius Victor.⁴⁹² In an example of practical status (*negotialis status*), Fortunatianus refers to a controversy that must have received frequent treatment by the rhetoricians:

Give an example, as in the case when the tribunes are appealed to. "A slave loves his mistress who is a prostitute; she wants to crucify him. He appeals to the tribunes because of the unjust punishment."

*Da exemplum, quem ad modum tribuni appellantur. "Servus meretricem dominam amat; vult illum cruci figere: appellat tribunos de iniusto supplicio."*⁴⁹³

The "practical" status (or stasis) is defined by Quintilian as:

I am aware that another explanation is given by Cicero in the first book of his *Rhetorica*⁴⁹⁴ of the species known as practical, where he says that it is "the department under which we consider what is right according to civil usage and equity: this department is regarded by us as the personal sphere of the lawyer."

*Nec me fallit in primo Ciceronis rhetorico aliam esse loci negotialis interpretationem, cum ita scriptum sit: "negotialis est in qua quid iuris ex civili more et aequitate sit consideratur: cui diligentiae praeesse apud nos iure consulti existimantur."*⁴⁹⁵

Presumably the "practical" issue in the case above was whether the prostitute was correct to have her slave crucified for the reason given.

Rhetorical ὑπεξάρεσις (holding back, reservation), according to Fortunatianus, is not mentioning something in court to one's adversaries or to the judges when it is dangerous to one's case.

It should not bother us either, if we keep quiet about a matter, which neither the adversary has adduced nor the judges know: as in that topic, in which a step-mother is held by pi-

⁴⁹⁰ Julius Victor *Ars rhetorica*, 1 De coniectura (BiTeu 7,8-11 Giomini/Celentano).

⁴⁹¹ Intro. § 3.1.1.

⁴⁹² M. Carruthers, *Rhetoric Beyond Words. Delight and Persuasion in the Arts of the Middle Ages*, Cambridge et al. 2010, 207. Cf. L. Calboli-Montefusco, *Consulti Fortunati ars rhetorica*, Bologna 1979, 5-20.

⁴⁹³ Fortunatianus *Ars rhetorica* 1.21 (95,4-6 Montefusco). Cf. § 2.20 above

⁴⁹⁴ Cic. Inv. 61.14.

⁴⁹⁵ Quint. Inst. 3.6.58, trans. of Butler, Quintilian, 1.439. Cp. the discussion in Lausberg, *Handbuch*, § 173.

rates and who offered a double sum to them that they might fix/nail her son-in-law on a cross. For this son should be kept out of the lawsuit, because the mother-in-law offered a double sum of money (and because she has been held by pirates), so that he should not be ransomed by his father. One should not fear to pass over it, when the father does not bring up what he does not know.

*Nec nos movere debet, si tacemus rem, quam nec adversarius opponit nec iudices sciunt: ut in illa materia, in qua noverca a piratis retenta est, quae duplam iis pecuniam obtulerat, ut privignum cruci figerent. Hic enim filius debet in actione subtrahere, quod noverca duplam pecuniam obtulit et quod a piratis retenta est, ne a patre redimatur. Neque id timendum est praeterire, cum pater non proponat, quod ignorat.*⁴⁹⁶

Fortunatianus does not explain why the step-mother wanted the stepson crucified. Presumably the father does not know anything about the step-mother's attempted bribery of the pirates.

3.13 *Medicina Plinii*

A fourth century compilation,⁴⁹⁷ based primarily on Pliny's *Natural History*, includes Pliny's recipe for quartan fevers quoted above:

For quartan fevers: The head of a nail by which someone has been fixed to a cross is bound in a garment, or a rope from a cross.

*Ad quartanas. Caput clavi quo aliquis in crucem fixus sit alligatur panno, vel spartum de cruce.*⁴⁹⁸

The rope could have been used for tying the pieces of the cross together or for tying the individual to the cross.⁴⁹⁹

3.14 *Rutilius Taurus Aemilianus Palladius (mid V C.E.?)*

The only handbook on agriculture that survives from late antiquity⁵⁰⁰ mentions a method used against caterpillars:

Some crucify river crabs in various places within the garden.

*aliqui fluuiales caneros pluribus locis intra hortum crucifigunt.*⁵⁰¹

Presumably this scared away bothersome caterpillars.

⁴⁹⁶ Fortunatianus *Ars rhetorica* 2.30 (119,24-9 Halm).

⁴⁹⁷ F. Kudlien and K.-D. Fischer, *Medizinische Literatur*, in: *Handbuch der lateinischen Literatur der Antike*. Fünfter Band. Restauration und Erneuerung 284 bis 374 n. Chr., ed. R. Herzog, Munich 1989,74-83, esp. 74-7.

⁴⁹⁸ *Medicina Plinii* 3.14 (BiTeu 88,14-6 Rose).

⁴⁹⁹ Oldfather, *Supplicium* 58-9.

⁵⁰⁰ M. S. Spurr, *Palladius* (1), *Rutilius Taurus Aemilianus*, ³OCD 1101. He taught in Rome during the reign of Valentinian III (422-55).

⁵⁰¹ *Palladius Opus agriculturae* 1.35.3 (BiTeu 36 Rogers = CUFr I, 40 Martin). Instead of *crucifigunt*, several renaissance MSS have *clavis figunt* (fix with nails).

3.15 Iunius Philargyrius

Philargyrius quotes a passage of Asconius with reference to a riddle in Ecl. 3.104-5:

Asconius Pedianus tells of hearing Vergil say that in this place [i.e., in the riddles of the third eclogue], “he set a cross for scholars, for he wished to make trial [or torture], which one of them would be found most learned.”

Item Asconius Pedianus ait, se audisse Virgilium dicentem, in hoc loco se grammaticis crucem fixisse; quaesituros eos, si quis⁵⁰² studiosius occuleretur.⁵⁰³

This use of crucifixion imagery is clearly metaphorical.

3.16 Orosius (composed his work between 416-418)

After describing the Carthaginian practice of human sacrifice, Orosius writes,

When the Carthaginians—the gods being alienated, as Pompeius Trogus and Justin admit, because of sacrifices of this kind, and, as we assert, because of their presumption and impiety toward an angered God—had long fought unsuccessfully in Sicily, they transferred the theatre of war to Sardinia, and there they were still more disastrously defeated. On account of this, they sentenced their general Malchus⁵⁰⁴ and the few surviving soldiers to exile. When their petition for clemency was denied, these exiles, led by Malchus made war upon and besieged their native city. Malchus was met by his own son Carthalo, a priest of Hercules, who came clad in purple as if to insult him. Malchus had him crucified in the sight of his countrymen, still arrayed in his purple garments and wearing his sacred fillets.

Itaque Carthaginienses auersis diis propter istius modi sacra - sicut Pompeius Trogus et Iustinus fatentur, sicut autem apud nos constat, propter praesumptionem impietatemque ipsorum irato Deo cum in Sicilia diu infelicitate dimicassent, translato in Sardiniam bello iterum infelicitus uicti sunt. Propter quod ducem suum Mazeum et paucos qui superfuerant milites exulare iusserunt. Exules ueniam per legatos petentes repulsi patriam bello et obsidione cinxerunt. Ibi tunc Mazeus dux exulum Carthalonem filium suum, sacerdotem Herculis, cur sibi uelut insultans purpuratus occurreret, in crucem sub oculis patriae ita ut erat cum purpura infulusque suspendit.⁵⁰⁵

This incident has been discussed above in the tradition of Justin, from which Orosius departs only slightly.

⁵⁰² Although Thilo and Hagen in Philargyrius in Virg. Ecl. 3.105 (BiTeu III/2, 70,8 Thilo/Hagen) have *quid* here, they read *quis eorum studiosior* (which of them ... most learned) in Servius in Ecl. 3.104-5 (BiTeu III/1, 42 app. crit. Thilo/Hagen).

⁵⁰³ Philargyrius Explanatio in Bucolica Vergilii, in Ecl. 3.104-5 (BiTeu III/2 70,4-8 Thilo/Hagen), trans. slightly modified of J. V. Sickle, *The Design of Virgil's Bucolics*, London 2004, 10.

⁵⁰⁴ Cf. H. H. Scullard, Malchus (1), ³OCD, 915 (fl. 580-50).

⁵⁰⁵ Oros. Hist. 4.6.6-8, trans. of Orosius, *The Seven Books of History Against the Pagans. The Apology of Paulus Orosius*, trans. I. W. Raymond, New York 1936, 162.

Orosius describes a set of events that took place during the time of Philip of Macedon. Hanno (ca 360 B.C.E.) attempted with 20,000 slaves to capture Carthage.

There he was captured while engaged in inciting the Africans and the king of the Moors to rebellion. First he was beaten with rods, next his eyes were torn out and his hands and legs broken – just as if punishments were exacted on every limb – and finally he was publicly executed. His body, mangled with stripes, was nailed to a cross. All his children and relatives were put to death, lest any of his family should ever think of following his example or of avenging him. These events took place in the time of Philip.

*Ibi dum Afros regemque Maurorum concitat, captus est ac primo uirgis caesus, deinde effossis oculis et manibus cruribusque fractis, uelut a singulis membris poena exigeretur, in conspectu populi necatus est. Corpus uerberibus lacerum cruci suffixum, filii cognatique omnes supplicio traditi, ne quis eum eiusdem familiae umquam aut imitari aut ulcisci meditaretur. Haec temporibus Philippi gesta sunt.*⁵⁰⁶

This is a post-mortem “crucifixion.” Orosius retells the narrative of Hamilcar’s defeat (ca 308) at the hand of Agathocles:

At the critical moment in the struggle the Carthaginians were driven to such a state of despair that, had not a mutiny arisen in the army of Agathocles, the Carthaginian general Hamilcar and his army would have deserted to the side of the enemy. For this intended offense the Carthaginians fastened Hamilcar to the *patibulum* in the middle of the Forum, where he furnished a cruel spectacle to his countrymen.

*Hoc certaminis discrimine tanta desperatio inlata Poenis est ut, nisi in exercitu Agathoclis orta seditio fuisset, transfugiturus ad eum Hamilcar dux Poenorum cum exercitu fuerit. Ob quam noxam in medio foro iussu Carthaginiensium patibulo suffixus crudele spectaculum suis praebuit.*⁵⁰⁷

Patibulum probably is used in its *pars pro toto* sense as cross (*crux*).⁵⁰⁸ It may be, however, synonymous with *crux* in this text.

In another account, dated to 255,⁵⁰⁹ Hamilcar crucifies some of the African leaders who had been friendly to Regulus:

The Punic general Hamilcar who had been sent with an army into Numidia and Mauretania, treated all the people as enemies and acted with cruelty toward them, because they were said to have received Regulus in a friendly spirit. He had the leaders of all the districts fastened to the *patibulum* and fined the rest of the people a thousand silver talents and twenty thousand cattle.

Hamilcar dux Poenorum cum exercitu in Numidiam Mauretaniamque missus postquam hostiliter cruentoque in uniuersos egit, cur Regulum libenter suscepisse dicerentur: mille

⁵⁰⁶ Oros. Hist. 4.6.19-20, trans. of Raymond, Orosius, 164.

⁵⁰⁷ Oros. Hist. 4.6.32, trans. of Raymond, Orosius, 166.

⁵⁰⁸ Cf. Oros. Hist. 7.4.13 *impie a Iudaeis apprehensus et patibulo suffixus est* (he was impiously arrested by the Jews and then nailed to the *patibulum*) and cf. intro. § 3.1.

⁵⁰⁹ The consuls being Aemilius Paulus and Fulvius Paetinus Nobilior. Cf. J. F. Lazenby, *The First Punic War. A Military History*, Stanford 1996, xvi

*argenti talentis et uiginti milibus boum reliquos condemnauit; principes autem omnium populorum patibulo suffixit.*⁵¹⁰

Orosius attributes the Roman practice of crucifixion to the Carthaginians. It is difficult to determine whether he is historically accurate or not.

3.17 *Hermetis Trismegisti, De triginta sex decanis*

A text from the middle ages, perhaps from IX or X C.E. contains earlier material including some from Teucros of Babylon (probably I B.C.E.).⁵¹¹ One of those traditions is a remark on crucifixion.⁵¹²

The thirteenth degree, when it [Aries] is in the ascendant with Saturn or the moon, engenders crucified individuals because of Andromeda and causes them to be afflicted and betrayed by friends [kin?].

*Tertius decimus gradus, cum fuerit in ascendente cum Saturno uel Luna, crucifixos facit propter Andromedam et a proximis afflictos et proditos.*⁵¹³

This is an example in which the memory of Roman crucifixion survives in a tradition that a mediaeval author preserves. Another tradition describes the dangers of Saturn and Mars.

When Saturn and Mars are in the ascendant and the Sun and Venus have a position of weakness, which is the sixth house from the ascendant⁵¹⁴ ... the native will have a bad wife or he will be depraved, or of evil counsel, a poisoner, a necromancer, an interpreter of idols or an astrologer and many of them will die because of demons unless one of the benevolent [planets] is in aspect with one of the malevolent and produces a dissolution of the evil consequences, because many while fixed to crosses die, and many are beheaded or have their members mutilated or have been burned alive.

Saturnus et Mars in ascendente et Sol ac Venus aegritudinis locum possidentes, qui est sextus ab horoscopo, ... et natus malum coniugium habebit et ipse erit prauus, mali consilii, ueneficus, necromantes, idolorum significator uel astrologus et plures eorum mori-

⁵¹⁰ Oros. Hist. 4.9.9, trans. of Raymond, Orosius, 172.

⁵¹¹ On the date of the compilation, which is itself a translation of a Greek text, cf. Hermetis Trismegisti de triginta sex decanis, CChr.CM 144, ed. S. Feraboli, Turnholt 1994, xxi. W. Hübner, noting that Manilius used Teucros, dates him to the last part of I B.C.E. Cf. idem, Grade und Gradbezirke der Tierkreiszeichen. Der anonyme Traktat de stellis fixis, in quibus gradibus oriuntur signorum, I quellenkritische Edition, II Kommentar, Leipzig 1995, 1.92 (with Manilius composing his *Astronomica* at the end of Augustus's imperium).

⁵¹² Cf. W. Hübner, Astrologie et mythologie dans le Tétrabible de Ptolémée d'Alexandrie, in: Sciences exactes et sciences appliquées à Alexandrie (III^e siècle av. J.-C. – I^{er} siècle ap. J.-C.), ed. G. Argoud and J.-Y. Guillaumin, Saint-Étienne 1998, 325-346, esp. 345 with ref. to Teucros 2.1.7 apud Anonymus De stellis fixis (BiTeu I, 139 Hübner) and the commentary in 2.107 (Aries 13° with regard to Saturn or the Moon) and its ref. to Firmicus Maternus 6.31.59. Cf. also Ptol. Apotel. 4.9.13.

⁵¹³ Hermes Latinus De triginta sex decanis 25.21 (82,60-62 Feraboli) = Teucros 2.1.7 apud Anonymus De stellis fixis (BiTeu I, 139; cp. 108 and 38,48-9 Hübner).

⁵¹⁴ On this astrological house which produces illness, cp. Firm. Mat. Mathesis 2.19.7.

*untur a daemonibus, nisi aliquis beneuolorum aspexerit maleuolos ut solutiones malorum faciat, quoniam et cruci plures affixi mortui sunt et decollati sunt uel mutilati sunt membra uel uiui combusti fuerunt.*⁵¹⁵

This tradition preserves the memory of crucifixion long after it had disappeared in the western world.

4 Conclusion

Latin texts provide good evidence for the practice of Roman crucifixion, not only because of the use of technical language such as *crux* and *patibulum*, but because of the details that often emerge that illuminate the practice of crucifixion. Only Seneca explicitly refers to impalement (twice), and his word of choice for that extreme penalty is *stipes*. The authors do not often give lengthy descriptions of crucifixions, but one can combine the details that do appear in the narratives to create a set of “family resemblances” of the process.⁵¹⁶ The literary authors such as Plautus are also fairly good evidence for the frequency of the penalty. It is difficult to believe that Plautus’s slaves would refer to crucifixion so often if it was not a pervasive usage in the society of their time. It is striking that the evidence drops off in the third century C.E. literary authors who wrote in Latin. Roman jurists of the third century, however, continue to refer to the practice so it would be unjustified to conclude that the practice declined in frequency.⁵¹⁷ Greek authors continued to mention the practice in the third century.⁵¹⁸ Consequently, the lack of references in the third century Latin authors may be little more than a fact about the preservation of ancient texts. The narratives also mention many crimes for which crucifixion was an appropriate penalty along with the kinds of individuals (slaves, freedmen, bandits, foreigners and occasionally freeborn citizens) who usually suffered the lingering death on the cross.

⁵¹⁵ Hermes Latinus De triginta sex decanis 26.77 (156,394-404 Feraboli).

⁵¹⁶ Cf. chapt. 6 § 1.2.

⁵¹⁷ Chapt. 5 § 1.5.

⁵¹⁸ Chapt. 3 § 2.13-15, 3.5.

Chapter Two

Roman Crucifixions: From the Second Punic War to Constantine

Scholarship has not attempted to document in a chronological manner the known Roman crucifixions of antiquity.¹ Kuhn reviewed the Roman crucifixions in Palestine and elsewhere during the first 150 years of the Common Era in a careful investigation of the entire issue.² Hengel gathered a massive amount of material, but made no attempt at a chronological treatment of the problem.³ Jean-Jacques Aubert has examined the legal background of Roman crucifixion.⁴ There is a surprising paucity of evidence for Roman crucifixion of Christians, according to a hagiographical analysis of Timothy Barnes.⁵

1 Synthesis of the Evidence

Given this material, itself based on the great scholarly work of the nineteenth century, and the existence of modern databases of Greek and Latin literature, the time is ripe for a synthesis of the historical evidence.⁶ An immediate result emerges: beginning with the Second Punic war and ending with the final stages of the persecution of Maximin, there are only twenty names of crucified individuals that have survived in existing sources, and some of those cru-

¹ This statement, subject to falsification of course, is based on my survey of books on crucifixion beginning with that of Lipsius in 1593. This chapter is an expansion of my article of the same title (Roman Crucifixions)

² Kuhn, *Kreuzesstrafe*, 685-718.

³ Hengel, *Crucifixion*. Even his treatment missed evidence, and in Greek literature many occurrences of words for crucifixion and penal suspension are not included. Some of the Latin material is missing also.

⁴ Aubert, *A Double Standard*, 110-130.

⁵ T. D. Barnes, *Early Christian Hagiography and History*, *Tria Corda* 5, Tübingen 2010, 1-9, 331-342. Aubert, *Double Standard*, 127-128 also made this point.

⁶ T. Mommsen, *Römisches Strafrecht*, Leipzig 1899, 918-921 remains fundamental. For the nineteenth century, cf. Hengel's bibliography, in particular: Zestermann, *Die Kreuzigung bei den alten*, 337-404 and idem, *Die bildliche Darstellung des Kreuzes*, 1-52. Databases include: *Thesaurus Linguae Graecae* (U. of California, Irvine) and *Brepols's Library of Latin Texts*, Series A and B.

cifixions are questionable.⁷ A conservative estimate of 30,000 individuals crucified by the Romans implies that .067 percent of the names of the *damnati* survive.⁸ To put it another way, for every 10,000 crucified individuals we have 6.7 names. After the execution of bishop Symeon of Jerusalem in Trajan's reign, no names of crucified victims exist in reliable sources until that of the slave Theodulus in Maximin's persecution in Palestine.⁹

In these narratives of crucifixions, the primary victims were slaves and *peregrini* (non-citizens), although occasionally freedmen and freed women, citizens, and soldiers were subjected to the penalty. Aubert remarks, "Its primary purpose is to emphasize the victim's final irrevocable rejection from the civic and international community and the total denial of any form of legal protection based on rights guaranteed by *ius civile* and *ius gentium* and attached to any legal status above slavery."¹⁰ I have included some texts that only mention the threat of crucifixion, but they are important for historical and juridical reasons. The material cannot illustrate the full range of Roman crucifixion from a legal, social, or practical (i.e., how it was carried out) perspective.¹¹ It does, however, provide evidence for conclusions about the con-

⁷ I discount the evidence of Dionysius Halicarnassus 5.51.3, 12.6.6 (crucifixions after slave revolts ca 500/499, 419/418 B.C.E. [Liv. 4.45.1-2 mentions the second revolt, but not crucifixion]). With regard to the second incident, K. R. Bradley, *Slavery and Rebellion in the Roman World, 140 B.C.-70 B.C.*, Bloomington et al 1989, 41 argues "... since slavery as an institution was now coming to have a higher social profile at Rome, it may reflect genuine protest against servitude. But the record is so spotty and late that further comment is valueless." The story of the slave Vindicius who revealed the conspiracy in 509 B.C. of Brutus's sons to open the gates of the city to Tarquin is also too old to be included here as a historical example (cf. Scholia in Iuvenalem vetustiora 8.266-268 [BiTeu 152.26-153.3 Wessner]). See Aubert, *Double Standard*, 125. According to the tradition he was freed, the sons were executed by the axe, and Vindicius was then crucified for betraying his masters (*ut delatorem dominorum*). Liv. 2.5.9 does not mention the punishment. Constantine probably officially ended crucifixion, although it did take place sporadically afterward.

⁸ The estimate is based on the numbers below, but I suspect the actual number is an order of magnitude higher (i.e., six figures instead of five). Augustus, for example, in Anc. 25.1, says that he returned 30,000 slaves to their masters for punishment (probably crucifixion for rebellion, see § 2.15.6 below).

⁹ Names in unreliable hagiographical material or in the NT apocrypha (with the exception of Peter) are not included below.

¹⁰ Aubert, *Double Standard*, 117 with ref. to Cic. Ver. 2.5.169-170 and cp. *ibid.*, 115: crucifixion was "a conscious attempt to treat [the victims] as slaves and implies for the victim a total loss of legal status (*capitis deminutio maxima*) that occurred de facto prior to sentencing." R. C. G. Levens, Cicero. The Fifth Verrine Oration. Edited with Introduction, Notes, and Vocabulary, Bristol 1980, 162, with ref. to 2.5.170 (*facinus* outrage), argues that Cicero "... expresses violent abhorrence of such acts on the part of a Roman magistrate without actually claiming that they are illegal."

¹¹ Aubert, *Double Standard*, 130, for example, notes that the jurists mentioned crucifixion for many other crimes than can be illustrated from the kinds of sources I include below.

tinuing and perhaps widespread use of the punishment until Constantine's imperium.

The definition of crucifixion as "execution by suspension" is intended to exclude impalement or hanging.¹² As I have shown in the introduction impalement is extremely rare in Latin sources as an explicit form of execution and hanging is not relevant for the Republic or imperium.¹³ The only texts in Latin that describe impalements use the word *stipes* for the implement used by the executioners.¹⁴ Although Seneca in one text writes that *stipes* is a type of *crux*, neither he nor any writer I am aware of uses *crux* itself for the instrument of impalement.¹⁵

2 Republic

The Romans used crucifixion frequently during the Republic, according to the surviving evidence. The practice seems to have first emerged as a Roman penalty during the Second Punic War. Ennius and Plautus who lived during that period provide some of the earliest evidence in Latin literature for crucifixion. The historical evidence, however, comes from authors who lived much later.

2.1 Second Punic War (218-201 B.C.E.)¹⁶

Whether the Carthaginians influenced the Roman adoption of crucifixion is an open question, because it is probably impossible to know the details of Carthaginian practice (although Greek and Latin authors of the Roman era thought that they used the Roman form of execution).¹⁷ The Carthaginians might have transformed into crucifixion the impalements depicted in certain reliefs from the ancient Near East.¹⁸ In any case, the Romans were possibly inspired to a certain extent by Carthaginian practice.

¹² Cf. intro. § 1.

¹³ Cf. intro. § 1.

¹⁴ Sen. Ep. 14.5 and Dial. 6.20.3. Cf. intro. § 1, 3.1.1, 3.4 and chapt. 1 § 2.3.

¹⁵ Sen. Dial. 6.20.3 (*Video istic cruces, non unius quidem generis ... alii per obscena stipitem egerunt*). In Sen. Ep. 101.10-12, Maecenas dies a slow death on a *patibulum* in Seneca's narrative vision.

¹⁶ Cf. B. M. Caven, Art. Punic Wars, OCD³, 1276-1278. Most dates below are from OCD³ and Kienast, Römische Kaisertabelle.

¹⁷ Parente, *Patibulum*, 372 is extremely sceptical of the thesis that the Romans adopted crucifixion from the Carthaginians. J. Blinzler, *Der Prozess Jesu*, Regensburg ³1960, 263 thinks the Carthaginians did practice crucifixion and Castagnetti, *Le leges libitinariae* flegree, 111-2 favors the possibility of a Carthaginian origin.

¹⁸ Cf. chapt. 4 § 1.

2.1.1 *Campus Martius*

Livy describes the crucifixion of twenty-five slaves on the Campus Martius for a conspiracy in 217 B.C.E.:

At about this time a Carthaginian spy who for two years had eluded capture was caught in Rome, and after his hands had been cut off, was allowed to go; and five and twenty slaves were crucified [led to the cross], on the charge of having conspired, in the Campus Martius. The informer was rewarded with freedom and twenty thousand sesterces.

*Per eosdem dies speculator Carthaginiensis, qui per biennium fefellerat, Romae deprensus praecisisque manibus dimissus, et servi quinque et viginti in crucem acti, quod in campo Martio coniurassent: indici data libertas et aeris gravis viginti <milia>.*¹⁹

The executions took place outside the walls of the city, illustrating one aspect of crucifixion: the victims were cast out of the community.²⁰

2.1.2 *Battle of Beneventum*

For slaves volunteering in battle there was the possibility of freedom or crucifixion according to a narrative concerning the actions of Tiberius Sempronius Gracchus (214 B.C.) in the battle of Beneventum:

When Tiberius Gracchus had proclaimed that he would confer freedom on such of the volunteer slaves as showed courage, but would crucify [fix/nail to a cross] the cowards, some four thousand men who had fought rather listlessly, gathered on a fortified hill in fear of punishment. Thereupon Gracchus sent men to tell them that in his opinion the whole force of volunteer slaves had shared in the victory, since they had routed the enemy. By this expression of confidence he freed them from their apprehensions and took them back again.

*Ti. Gracchus, cum edixisset futurum, ut ex volonum numero fortibus libertatem daret, ignavos crucibus affigeret, et quattuor milia ex his, quia segnius pugnaverant, metu poenae in quendam munitum collem coissent, misit qui eis dicerent totum sibi exercitum volonum vicisse videri, quod hostes fudissent; et sic eos et sua fide et ipsorum metu exsolutos recepit.*²¹

¹⁹ Liv. 22.33.1-2. Trans. of Livy, with an English Translation in Fourteen Volumes, LCL, ed. and trans. B. O. Foster et al., Cambridge, MA/London 1919-1959, 5.309-311. Cp. Cicero's shock that a tribune would consider setting up a cross on the Campus Martius in Rab. Perd. 11 (although Cicero has misleadingly altered the *arbor infelix*, which was probably death by scourging, to crucifixion [*crux*]). Cf. intro. § 3.7 and chap. 1 § 1.6.

²⁰ The Campus was outside the pomerium during the Republic. Cf. L. Richardson, *A New Topographical Dictionary of Ancient Rome*, Baltimore/London 1992, 65-67 and F. Hinard, *Spectacle des exécutions et espace urbain*, in: *L'Urbs. Espace urbain et histoire* (Ier siècle av. J.-C. – IIIe siècle ap. J.-C.), Actes du colloque international de Rome (8-12 mai 1985), Publications de l'École française de Rome 98, Rome 1987, 111-125, esp. 115-6.

²¹ Fron. Stra. 4.7.24 (BiTeu 138.24-139.3 Gundermann). Trans. of Frontinus, *The Stratagems*, LCL, ed. and trans. C. E. Bennett, Cambridge, MA/London 1925, 319. Cp. Liv. 24.14-16. In 24.14.7 he used a similar threat: *qui loco cessisset, in eum servili supplicio animadversum*.

Crucifixion was the usual penalty for slaves (the *servile supplicium*).²²

2.1.3 The Siege of Salapia (208 B.C.E.)

After Hannibal's unsuccessful attempt to capture Salapia (208 B.C.E.) by ruse using 600 Roman deserters,²³ Polybius describes the response of the Salapians:

Suddenly letting down the portcullis which they had raised somewhat higher by mechanical means, they attacked the intruders and capturing them crucified them before the wall.

Οἱ δὲ καταρράκτας, οὓς εἶχον ὀλίγον ἐξωτέρω διὰ μηχανημάτων ἀνημμένους, αἰφνίδιον καθῆκαν καὶ ἐπεβάλοντο, καὶ τούτους κατασχόντες πρὸ τοῦ τείχους ἀνεσκολόπισαν.²⁴

The intruders were Roman deserters.

2.1.4 Scipio Africanus

When the war ended (201 B.C.E.), Scipio Africanus punished Roman soldiers who had deserted to the Carthaginian army.

He looked upon the Romans as slaves who had run away from their native land, so he crucified them [fixed them to crosses]. He looked upon the Latins as disloyal allies, so he beheaded them. I will not go into this matter any further, because it was something Scipio did, and because it is not right to gloat over Romans who suffered the punishment of a slave however much they deserved it.

*hos enim tamquam patriae fugitivos crucibus adfixit, illos tamquam perfidos socios securi percussit. non proseguar hoc factum ulterius, et quia Scipionis est et quia Romano sanguini quamvis merito perpresso servile supplicium insultare non adinet ...*²⁵

The penalty for desertion was wild beasts or crucifixion in the *Digest*.²⁶

²² Cf. chapt. 5 § 1.1.

²³ Liv. 27.28.4-13, Appian Hann. 51/218-20 (in the references to Appian below, the first number is that of the Loeb edition and the numbers after the back slash are additional divisions in the Teubner edition [Appiani historia romana, vol. 1-2, ed. P. Viereck, A. G. Roos, and L. Mendelssohn, BiTeu, Leipzig 1905-1962] 1.178,5-23), Front. Strat. 3.2.3. On the date, cf. M. P. Fronda, Between Rome and Carthage. Southern Italy during the Second Punic War, Cambridge 2010, 260. Fronda notes that it is not clear whether the Salapian guards were Romans or "Latin-speaking Salapians."

²⁴ Polybius 10.33.8, trans. of Polybius, The Histories, vol. 1-6. LCL, ed. and trans. W. R. Paton 1922-27, 4.183.

²⁵ V. Max. 2.7.12. Trans. of Valerius Maximus, Memorable Deeds and Sayings. One Thousand Tales from Ancient Rome, trans. H. J. Walker; Indianapolis 2004, 66. Cp. Liv. 30.43.13 (201 B.C.E.) *de perfugis grauius quam de fugitiuis consultum: nominis Latini qui erant, securi percussi, Romani in crucem sublatis* (harsher steps were taken against the deserters than the runaway slaves: those who were of the Latin people he executed by the axe, those who were Roman were crucified). These executions took place in Africa. See Aubert, Double Standard, 118.

²⁶ Cf. Modestinus 4 De poenis in Dig. 49.16.3.10 (chapt. 5 § 1.5).

2.2 *M. Acilius Glabrio*

In Etruria in 196 B.C.E. the *praetor peregrinus* M. Acilius Glabrio put down a slave revolt:

A conspiracy of slaves nearly infested Etruria. Manius Acilius Glabrio, the praetor to whom by lot fell the jurisdiction between citizens and non-citizens, was sent with one of the two urban legions to investigate and quell it. Some †, others whom he fought en masse he defeated: of these many were killed, and many were captured; after scourging others who were the leaders of the conspiracy he affixed them to crosses, and others he returned to their masters.

... *Etruriam infestam prope coniuratio seruorum fecit. ad quaerendam opprimendamque eam M'. Acilius Glabrio praetor, cui inter ciues peregrinosque iurisdictio obtigerat, cum una ex duabus legione urbana est missus. alios <--- alios> iam congregatos pugnando uicit: ex his multi occisi multi capti; alios uerberatos crucibus adfixit, qui principes coniurationis fuerant, alios dominis restituit.*²⁷

The penalty in the *Digest* for the leader of a sedition (*auctor seditionis*) is crucifixion.²⁸ The masters probably crucified their slaves (cp. the *lex Puteolana* in chapt. 5 § 1.4).

2.3 *First Sicilian Slave War (?135-132)*

2.3.1 *Minturnae*

At the end of the first slave war in Sicily, many slaves were crucified according to a tradition in Orosius.

What is more, the contagious disease of the Sicilian slave war infected many provinces far and wide. At Minturnae [in Italy] 450 slaves were crucified. At Sinuessa, an uprising of about 4,000 slaves was crushed by Quintus Metellus [consul in 143] and Gnaeus Servilius Caepio [praetor in 143 B.C.].

*Orta praeterea in Sicilia belli seruilis contagio multas late infecit prouincias. Nam et Minturnis CCCCL serui in crucem acti, et Sinuessae ad quattuor milia seruorum a Q. Metello et Cn. Seruilio Caepione oppressa sunt;*²⁹

²⁷ Liv. 33.36.2-3. Cf. J. Briscoe, Art. Acilius Glabrio, Manius, OCD³, 8. There is a lacuna. McDonald conjectured <uagos comprehendit alios> (he captured part of them who were wandering about). Madvig conjectured <uagos per agros oppressit alios> (he captured part of them wandering about in the countryside). Cf. Titi Livi ab urbe condita libri xxxi-xl, BiTeu, ed. J. Briscoe, Berlin 1991, 177 app. crit.

²⁸ PS 5.22.1 = Dig. 48.19.38.2 (where *furcam* is used), cf. chapt. 5 § 1.7.

²⁹ Orosius Hist. 5.9.4. Trans. of Spartacus and the Slave Wars. A Brief History with Documents, trans, ed. and intro., B. D. Shaw, Boston, MA 2001, 97. Shaw dates the first war to 135-133, following C. Brennan, The Commanders in the First Sicilian Slave War, Rivista di filologia e di istruzione classica 121 (1993) 153-184, esp. 184. P. Green, The First Sicilian Slave War, PaP 20 (1961) 10-29, esp. 11 also dates the outbreak of the rebellion to 135. Cp.

The tradition is credible, and crucifixion was the usual penalty for rebellious fugitives.

2.3.2 *Calpurnius Piso*

Fugitive rebellious slaves deserved crucifixion according to the consul, Calpurnius Piso (133 B.C.E.):

When Lucius Calpurnius Piso was consul and fighting a war against the runaway slaves in Sicily, his cavalry prefect, Gaius Titius, was surrounded by a crowd of enemy soldiers and surrendered his weapons to them.

*L. quoque Calpurnius Piso consul, cum in Sicilia bellum aduersus fugitiuos gereret et C. Titius equitum praefectus [fugitiuorum] multitudine hostium circumuentus arma iis tradidisset.*³⁰

Piso disgraced the prefect by making him complete his military service in a toga with the edges cut off, made him go barefoot, and so forth.³¹ He took the horses away from his cavalry.

The great disgrace they had inflicted on their country was punished by their own disgrace, and Piso did it to produce the following effect: these soldiers had longed so much to save their lives that they had allowed runaway slaves, who deserved crucifixion, to set up trophies over them. Although they were free citizens, they had not been ashamed when they were forced by the hands of slaves to go under the disgraceful yoke,³² so now they would find out that life too can be bitter, and even if they had once dreaded death like women, they would soon long for it like men.

*magnum profecto dedecus patriae pari sontium dedecore uindicatum est, quoniam quidem id egit Piso, ut qui cupiditate uitae adducti cruce dignissimis fugitiuis tropaea de se statuere concesserant libertatique suae seruili manu flagitiosum inponi iugum non erubuerant, amarum lucis usum experirentur mortemque, quam effeminate timuerant, uiriliter optarent.*³³

The important principle here is *cruce dignissimis fugitiuis* (fugitives [slaves] that deserved the cross).

2.3.3 *Mamertium*

Orosius also writes of Piso:

In Sicily the consul Piso, who succeeded the consul Fulvius, stormed the town of Mamertium, where he killed 8,000 runaways. Those whom he was then able to capture, he cruci-

W. G. W. Forrest, T. C. W. Stinton and P. Green, *The First Sicilian Slave War*, PaP 22 (1962) 87-93.

³⁰ V. Max. 2.7.9. Trans. of Walker, Valerius, 65.

³¹ This part of the narrative appears in Front. Str. 4.1.26 (120.25-121.3 Gundermann).

³² Presumably this is the ceremony described in Cassius Dio 5 Frag. 23.2 = Zonaras VII 17.9-10 (I 63.6-10 Boissonade) and Dionysus Halicarnassus 3.22.7.

³³ V. Max. 2.7.9. Trans. of Walker, Valerius, 65.

fied. He was succeeded by the consul Rutilius who took Tauromenium and Henna, the runaways' strongest refuges, by force. More than 20,000 slaves are said to have been slaughtered at that time.

*In Sicilia enim post Fulvium consulem Piso consul Mamertium oppidum expugnauit ubi octo milia fugitiuorum interfecit, quos autem capere potuit, patibulo suffixit. Cui cum Rutilius consul successisset, idem quoque Tauromenium et Hennam, firmissima fugitiuorum refugia, bello recepit: amplius quam XX milia tunc seruorum trucidata referuntur.*³⁴

Although the number of crucified slaves is unknown, it is clear that Orosius's tradition reflects Roman practice.

2.3.4 Enna

Florus has this tradition:

At last punishment was inflicted upon them under the leadership of Perperna, who, after defeating them and finally besieging them at Enna, reduced them by famine as effectually as by a plague and requited the surviving marauders with fetters, chains and the cross.

*tandem Perperna imperatore supplicium de eis sumptum est. hic enim victos et apud Hennam novissime obsessos cum fame quasi pestilentia consumpsisset, reliquias latronum compedibus catenis crucibusque punivit;*³⁵

The image of chains may imply such a scene as that which Chariton depicted in his first century C.E. novel. Slaves who attempted to escape an agricultural chain gang³⁶ in Caria were caught.

Without even seeing them or hearing their defense, the master at once ordered the crucifixion of the sixteen messmates. They were brought out of the hut chained together at foot and neck, each carrying his cross – the men executing the sentence added this grim public spectacle to the inevitable punishment as an example to frighten the other prisoners.

κάκεινος οὐδὲ ἰδὼν αὐτοὺς οὐδὲ ἀπολογουμένων ἀκούσας εὐθὺς ἐκέλευσε τοὺς ἐξκαίδεκα τοὺς ὁμοκλήνους ἀνασταυρῶσαι. προήχθησαν οὖν πόδας τε καὶ τραχήλους συνδεμένοι, καὶ ἕκαστος αὐτῶν τὸν σταυρὸν ἔφερε· τῇ γὰρ

³⁴ Orosius Hist. 5.9.6-7. Trans. of A. T. Fear, Orosius. Seven Books against the Pagans, Liverpool 2010, 223. Fear notes that the consul's name was Rupilius. Cp. Liv. Per. 59 (BiTeu 71.5 Rossbach): *P. Rupilius cos. in Sicilia cum fugitivis debellavit* (P. Rupilius the consul was in Sicily when he subdued the fugitive slaves). Cf. Bradley, Slavery, 61 on this battle of 132. With regard to Piso, Bradley (ibid.) uses this phrase: "... allegedly killing 8000 rebel slaves." Cichorius, (C.) Clodius Licinus, 79 notes that Holzapfel believed that the text of Licinus Libri rerum romanarum frag. 3 (cf. intro. § 3.1.1) referred to this event, but argues that the passage in Licinus could refer to too many other incidents in which slaves were executed.

³⁵ Flor. Epit. 2.7 (olim 3.19.7-8) (BiTeu 126.3-7 Rossbach = 141.15-19 Malcovati). Trans. of Lucius Annaeus Florus, Epitome of Roman History. Cornelius Nepos, LCL, ed. and trans. E. S. Foster and J. C. Rolfe, London/New York 1929, 239.

³⁶ Cf. Columella 1.7.1 on chained agricultural slaves and the refs. to other uses of chained slaves in T. Wiedemann, Greek and Roman Slavery, London 1981, 27, 85, 122, 130, 132, etc.

ἀναγκαίᾳ τιμωρίᾳ καὶ τὴν ἔξωθεν φαντασίαν σκυθρωπὴν προσέθεσαν οἱ
κολάζοντες εἰς φόβου παράδειγμα τοῖς ὁμοίοις.³⁷

In this text the slaves first carry the *patibulum* (cf. intro. § 3.2).

2.4 L. Domitius Ahenobarbus (97 B.C.E.), Second Slave Revolt

After the second revolt in Sicily, slaves were forbidden to carry weapons.

L. Domitius was equally firm in his resolutions: for when he ruled Sicily as praetor, a huge boar was brought to him. He commanded that the shepherd be brought to him by whose hand it was killed; whom when asked how he had killed the beast – after he ascertained that he had used a hunting spear – he crucified, because to banish the brigandage that was laying the province waste, he had issued an edict that no one should bear arms.

*Aequae tenax propositi L. Domitius: nam cum Siciliam praetor regeret et ad eum eximiae magnitudinis aper allatus esset, adduci ad se pastorem, cuius manu occisus erat, iussit interrogatumque qui eam bestiam confecisset, postquam conperit usum uenabulo, cruci fixit, quia ipse ad exturbanda latrocinia, quibus prouincia uastabatur, ne quis telum haberet edixerat.*³⁸

The shepherd was crucified because of his status as a slave.

2.5 Mucius Scaevola (97 B.C.E.)

Mucius Scaevola, in his campaign against informers and the predations of the tax farmers, when he was proconsul of Asia had a slave crucified for taking part in those activities.

When a slave who was their [the tax farmers'] chief steward had given a great sum of money for his freedom according to an agreement with his masters, before payment of the ransom [i.e., manumission],³⁹ Scaevola condemned him to death and crucified him.

³⁷ Chariton 4.2.6-7. Trans. slightly mod. of B. P. Reardon, ed., *Collected Ancient Greek Novels*, Berkeley 1989, 67 and cf. the discussion of L. L. Welborn, Paul, *The Fool of Christ. A Study of 1 Corinthians 1-4 in the Comic-Philosophic Tradition*, London/New York 2005, 133 and Hengel, *Crucifixion*, 82. On chains generally cf. Halm-Tisserant, *Realités*, 73-84.

³⁸ V. Max. 6.3.5. Cp. Cic. Ver. 2.5.7 *statim deinde iussu praetoris in crucem esse sublatum* (then immediately by the order of the praetor he was crucified) and Quint. Inst. 4.2.17 who refers to Cicero (... *in Verrem de L. Domitio, qui pastorem, quod is aprum, quem ipsi muneri obtulerat, exceptum esse a se venabulo confessus esset, in crucem sustulit*). Cf. T. C. Brennan, *The Praetorship in the Roman Republic*, vol. 2, Oxford et al. 2000, 480 and J. Carlsen, *The Rise and Fall of a Roman Noble Family. The Domitii Ahenobarbi 196 BC-AD 68*, Odense 2006, 50 (praetor or propraetor).

³⁹ For this use cf. BAGD ad loc., in particular the manumission in Inscr. di Cos ED 144.7 = LSCG 160 = SGDI III,1 3629 = Paton-Hicks 29 from II B.C.E. See the comments of R. Herzog, *Koische Forschungen und Funde*, Leipzig 1899, 39-41, F. Bömer, *Untersuchungen über die Religion der Sklaven in Griechenland und Rom*, Teil 2, *Die sogenannte sakrale Freilassung in Griechenland und die (δοῦλοι) ἱεροί*, AAWLM.G 1960/1, Wiesbaden 1960, 116 (who denies that the text is a sacral manumission in the sense of a sale to the gods [Adrasteia and Nemesis]). Cf. R. Parker - D. Obbink, *Aus der Arbeit der «Inscriptines Grae-*

ὅτε δὴ τὸν κορυφαῖον τούτων οἰκονόμον, διδόντα μὲν ὑπὲρ τῆς ἐλευθερίας πολλὰ χρήματα καὶ συμπεφωνηκότα πρὸς τοὺς κυρίους, φθάσας τὴν ἀπολύτρωσιν καὶ θανάτου καταδικάσας ἀνεσταύρωσεν.⁴⁰

Since Scaevola had instituted civil and criminal proceedings against the tax farmers, including executions for the most egregious cases, the presumption is that the slave had aided his masters in a crime (or crimes) worthy of death (πᾶσι γὰρ τοῖς ἡδικημένοις ἀκριβῆ κρίτηρια προστάττων, καταδίκους ἐν ἅπασι ἐποίει τοὺς δημοσιώνας καὶ τὰς μὲν ἀργυρικὰς βλάβας τοῖς ἡδικημένοις ἐκτίνειν ἠνάγκαζε, τὰ δὲ θανατικὰ τῶν ἐγκλημάτων ἡξίου κρίσεως θανατικῆς).⁴¹

2.6 *Bruttius Sura* (87 B.C.E.)

Bruttius Sura, in the Mithridatic wars,

... stormed Sciathos, which was a storehouse of plunder for the barbarians, crucified some of them who were slaves, and cut off the hands of the freemen.

ὁ Βρύττιος ... Σκιάθον ἐξεῖλεν, ἣ τῆς λείας τοῖς βαρβάροις ταμιεῖον ἦν, καὶ δούλους τινὰς αὐτῶν ἐκρέμασε⁴² καὶ ἐλευθέρων ἀπέτεμε τὰς χεῖρας ...⁴³

The agents and allies of Mithridates had been very cruel toward the Romans and Italians in the towns of Asia.⁴⁴

2.7 *Valerius Soranus* (82 B.C.E.?)

Servius *auctus* claims that Valerius Soranus, a tribune of the plebs, was crucified for divulging the secret name of Rome:

He will call them Romans from his own name: He wisely says not “Rome” but “Romans.” For no one utters the true name of that city even in sacred rites. Accordingly, as Varro

cae» VI. Sale of Priesthoods on Cos I, Chiron 30 (2000) 415-50, esp. 441-2 (“those undergoing manumission are required to sacrifice in the shrine [of Adrasteia and Nemesis]” in ED 144). Parker and Obbink (ibid., 442) do not think the inscription is a “sacral manumission” “whereby a measure of divine protection was sought for the ever precarious freedom of the manumitted by fictive dedication or fictive sale to a god.” The text rather records a “registration charge.”

⁴⁰ Diodorus Siculus 37.5.3, Hengel, Crucifixion, 79.

⁴¹ 37.5.2. Cf. the trans. of Diodorus of Sicily, vol. 12, LCL, ed. and trans. F. R. Walton, Cambridge, MA/London 1967, 203: “He assigned scrupulously fair tribunals to hear all who had been wronged, and in every case found the publicans guilty; he forced them to reimburse the plaintiffs for financial losses they had suffered, while he required those who were accused of having put men to death to stand trial on capital charges.”

⁴² On this word, cf. intro. § 2.2.

⁴³ Appian Mithr. 29/114 (I, 444,5-7 Vier./Roos), trans. of Appian’s Roman History, vol. 1-4, LCL, ed. and trans. H. White, Cambridge, MA/London 1912-1913, 1.291-293. Cf. J. G. F. Hind, Mithridates, CAH² IX (1994) 129-164, esp. 151.

⁴⁴ Appian Mithr. 22-3/85-92 (I, 437,5-438,18 Vier./Roos). Cf. chapt. 1 § 2.5.

and many others say, a certain tribune of the plebs, Valerius Soranus, since he dared utter this name, according to some, was arrested by the Senate and crucified, or according to others, he fled in fear of punishment and in Sicily was arrested by a praetor at the Senate's instruction and put to death. Not even Hyginus divulged this name in his work *De situ urbis*.

ROMANOSQVE SVO DE NOMINE DICET perite non ait Romam, sed Romanos. urbis enim illius verum nomen nemo vel in sacris enuntiat denique tribunus plebei quidam *Valerius Soranus*, ut ait Varro et multi alii, hoc nomen ausus enuntiare, *ut quidam dicunt raptus a senatu et in crucem levatus est, ut alii, metu supplicii fugit et in Sicilia comprehensus a praetore praecepto senatus occisus est.* hoc autem urbis nomen ne Hyginus quidem cum de situ urbis loqueretur expressit.⁴⁵

It is a good story, but one wonders why the other ancient authors did not mention the aggravated form of execution if Valerius Soranus was really crucified – but Servius's source may be ultimately reliable, and the other sources were perhaps unaware of or did not wish to mention the crucifixion. It is possible that Soranus became a *homo sacer* (an outlaw) and consequently became subject to crucifixion.⁴⁶ For Festus, sacred laws are those which ordain that someone who had acted contrary to them becomes forfeited to one of the gods along with his family and property (*Sacratae leges dicebantur, quibus sanctum erat, ut, si quis adversum eas fecisset, sacer alicui deorum esset cum fa-*

⁴⁵ The italics are words of Servius Auctus. Servius A. 1.277 (I, 103 Thilo/Hagen) and cp. Servius G. 1.498 (III, 215 Thilo/Hagen) *nam verum nomen eius numinis, quod urbi Romae praest, sciri sacrorum lege prohibetur: quod ausus quidam tribunus plebis enuntiare in crucem levatus est*, where part of the tradition (the crucifixion of the tribune) is repeated (his execution is mentioned by Solinus, *De mirabilis* 1.4-5). Trans. of T. Murphy, Soranus and the Secret Name of Rome, in: *Rituals in Ink. A Conference on Religion and Literary Production in Ancient Rome* held at Stanford University in February 2002, ed. A. Barchiesi/J. Rüpke/S. Stephens, Munich 2004, 127-137, esp. 129 (slightly modified). Murphy thinks this narrative is only “just” compatible with Plutarch's version in *Pomp.* 10.4, although the crucifixion of a magistrate would be “highly unusual.” J. Rüpke denies that his death had anything to do with religion, but was because of his support for Marius (*Religion of the Romans*, Cambridge, UK/Malden, MA 2007, 133) with ref. to Plutarch *Pomp.* 10.4. Plutarch, however in *Quaest. Rom.* 61, claims Soranus was executed for divulging the name and cp. *Plin. Nat.* 3.65 (execution for the same reason). Murphy surveys all these texts and more, but is not interested in proving the historicity of the tale. On his date and identity, cf. R. A. Kaster, *Valerius Soranus*, *OCD*³ 1581. F. Cairns, Rome and Her Tutelary Deity, in: *Ancient Historiography and its Contexts. Studies in Honour of A. J. Woodman*, ed. C. Kraus et al., Oxford 2010, 245-68, esp. 261: the crucifixion of Valerius Soranus is “intrinsically unlikely.” Cairns is sceptical of the existence of a secret name of Rome (although Roman authors did speculate about it), and rejects the historicity of the entire narrative (*ibid.*, 258-63).

⁴⁶ A law of Numa Pompilius specifies that those who break the laws became *sacer* (sacri-ficially dedicated) to Jove. Cf. *Fest.* 5 Lindsay *Si quisquam aliuta faxit, ipsos Iovi sacer esto*. On the concept, cf. L. ter Beek, Divine Law and the Penalty of *Sacer Esto* in Early Rome, in: *Law and Religion in the Roman Republic*, Mn.S 336, ed. O. Tellegen-Couperus, Leiden 2012, 11-30, esp. 26-8.

milia pecuniaque).⁴⁷ Macrobius holds that everything that is “destined or intended for the gods is called *sacer*” (*nam quicquid destinatum est dis sacrum vocatur*).⁴⁸

2.8 Julius Caesar and the Pirates (75 B.C.E.)

After pirates captured Caesar near the island of Pharmakoussa, he ransomed himself. When the governor of Miletus delayed the punishment of the pirates,

... Caesar left him to his own devices, went to Pergamum, took the robbers [brigands] out of prison and crucified them all, just as he had often warned them on the island that he would do when they thought he was joking.

χαίρειν ἑάσας αὐτὸν ὁ Καῖσαρ εἰς Πέργαμον ὄχρετο, καὶ προαγαγὼν τοὺς ληστὰς ἅπαντας ἀνεσταύρωσεν, ὥσπερ αὐτοῖς δοκῶν παίζειν ἐν τῇ νήσῳ προειρήκει πολλάκις.

The story was retold often with variations and likely contains a good kernel of historical truth.⁴⁹

2.9 Strato, servus

Cicero, in his defense of Cluentius in 66, charges that Cluentius’s mother Sasia who had bought Strato the doctor had him tortured to get evidence against her son – specifically, to force him into saying that Cluentius tried to poison Oppianicus (Clu. 176). Cluentius had disapproved of his mother’s marriage with her ex son-in-law (Clu. 11-12), and she had in turn begun to hate her son. Strato later was guilty of murder during a theft (Clu. 179-80). The crucifixion probably happened around 71, three years after the death of Oppianicus (Clu. 182), whom Cluentius’s mother had eventually married.

As for Strato gentlemen [members of the jury], I have to inform you that he was crucified after first having had his tongue cut out, as everyone at Larinum knows. The frenzied

⁴⁷ Paul. Fest. 423 Lindsay.

⁴⁸ Macrobius Saturn. 3.7.3 (trans. of Ter Beek, Divine Law, 28).

⁴⁹ Plutarch Caes. 2.7. Trans. of Plutarch, Lives, vol. 7, LCL, ed. and trans. B. Perrin, Cambridge, MA/London 1919, 447. Cp. V. Max. 6.9.15 *continuo enim captos praedones crucibus adfixit* immediately he crucified the captured pirates/brigands; Vell. 2.42.3 *omnes quos ceperat suffixit cruci* all whom he had captured he fixed to the cross. Suet. Jul. 74.1 *quoniam suffixurum se cruci ante iuraverat, iugulari prius iussit, deinde suffigi* he had them crucified, since he had sworn beforehand that he would do so, but ordered that their throats be cut first, trans. of Suetonius, vol. 1-2, LCL, ed. and trans. J. C. Rolfe, Cambridge, MA/London 1914, 1.125. Ps. Plutarch retells the story in Reg. imp. apoph. 206A: τῶν γὰρ λύτρων κομισθέντων ἀπολυθεὶς καὶ συναγαγὼν ἄνδρας ἐξ Ἀσίας καὶ πλοῖα συνήρπασε τοὺς ληστὰς καὶ προσήλωσεν (For when the ransom was brought, and he was set free, he got together men and ships from Asia Minor, seized the robbers [brigands], and crucified [nailed] them). Trans. of Plutarch’s Moralia, vol. 3, LCL, ed. and trans. F. C. Babbitt, Cambridge, MA/London 1931, 223. None of these texts indicate impalement.

woman feared not her own conscience, nor the hatred of her neighbours, nor the general scandal: she forgot that all men would be witness to her crime, and dreaded only that she might be denounced by the last utterances of a poor, dying slave.

*nam Stratonem quidem iudices in crucem esse actum exsecta scitote lingua; quod nemo Larinatum est qui nesciat. timuit mulier amens non suam conscientiam non odium municipum non famam omnium, sed quasi non omnes eius sceleris testes essent futuri sic metuit, ne condemnaretur extrema servuli voce morientis.*⁵⁰

Sassia did not avail herself of a *consilium* in the domestic tribunal she held over the theft and murder.⁵¹ Her fear of the slave's words on the cross demonstrates that his death was not an impalement.

2.10 The Third Servile War (73-71)⁵²

2.10.1 The Crucifixion of Spartacus's Army

During the slave revolt, Spartacus "crucified a Roman prisoner in the space between the two armies to show his men what fate awaited them if they did not conquer" (αἰχμάλωτόν τε Ῥωμαῖον ἐκρέμασεν ἐν τῷ μεταίχμῳ, δεικνὺς τοῖς ἰδίοις τὴν ὄψιν ὧν πείσονται, μὴ κρατοῦντες).⁵³ After the defeat of Spartacus's army by Crassus in 71 B.C.E. the rebellious slaves suffered crucifixion – the usual punishment for such *fugitivi*:

They divided themselves in four parts, and continued to fight until they all perished except 6000, who were captured and crucified along the whole road from Capua to Rome.

οἱ δὲ διελόντες ἑαυτοὺς ἐς τέσσαρα μέρη ἀπεμάχοντο, μέχρι πάντες ἀπώλοντο πλὴν ἑξακισχιλίων, οἱ ληφθέντες ἐκρεμάσθησαν ἀνὰ ὅλην τὴν ἐς Ῥώμην ἀπὸ Καπύης ὁδόν.⁵⁴

Spartacus knew that fate that awaited his army if they were defeated.

2.10.2 Gavius of Consa

Verres while propraetor in Sicily (73-71 B.C.E.) had Gavius of Consa crucified in Messana even though the condemned man claimed he was a Roman citizen:

⁵⁰ Cic. Clu. 187. Trans. of H. G. Hodge, Cicero, Orations, vol. 9, LCL, Cambridge, MA/London 1927, 425.

⁵¹ Cf. Kunkel, Das Konsilium im Hausgericht, in Kleine Schriften, 117-49, esp. 128-9.

⁵² E. T. Salmon and A. W. Lintott, Art. Spartacus, OCD³ 1433.

⁵³ Appian Bell. civ. 1.119/553 (II, 132,14-6 Mend./Vier.). Trans. of White, Appian's Roman History, 3.221.

⁵⁴ Appian Bell. civ. 1.120/559 (II, 133,17-20 Mend./Vier.). Trans. of White, Appian's Roman History, 3.223-225. On Spartacus's revolt, cf. Dumont, Servus, 271-97.

To this Verres replied that he had discovered that Gavius had been sent to Sicily as a spy by the leaders of the fugitive army, a charge which was brought by no informer, for which there was no evidence and which nobody saw any reason to believe.

*tum iste, se comperisse eum speculandi causa in Siciliam a ducibus fugitivorum esse missum; cuius rei neque index neque vestigium aliquod neque suspicio cuiquam esset ulla;*⁵⁵

Gavius requested Verres to wait for the testimony of the knight Lucius Raelius who was at Panhormus in Sicily.⁵⁶ Cicero was willing to concede:

... should he fail to do so [identify Verres], then you would be free to set up this precedent, if you chose, that a man who was not known to yourself, and could not produce some person of substance to vouch for him, might be put to death on the cross [be raised on a cross], even if he were a Roman citizen.

*... si ignoraret, tum si ita tibi videretur, hoc iuris in omnes constitueres, ut qui neque tibi notus esset neque cognitorem locupletem daret, quamvis civis Romanus esset, in crucem tolleretur.*⁵⁷

Cicero's insistence that Gavius could see Italy from his cross shows this was not an impalement.⁵⁸ Lactantius's comment is that Gavius was crucified "against all laws" (*contra omnes leges in crucem esse sublatum*).⁵⁹

2.10.3 Roman Citizens?

Cicero seems to maintain that Verres had other Roman citizens crucified:

He is being swept into madness by those executions of Roman citizens, whom he either beheaded, or imprisoned til they died, or, while they appealed in vain for their rights as free men and Romans, crucified [raised to a cross].

*Agunt eum praecipitem poenae civium Romanorum, quos partim securi percussit, partim in vinculis necavit, partim implorantis iura libertatis et civitatis in crucem sustulit.*⁶⁰

⁵⁵ Cic. Ver. 2.5.161. Trans. of Cicero, *The Verrine Orations*, vol. 1-2, LCL, ed. and trans. L. H. G. Greenwood, Cambridge, MA/London 1928-1935, 2.645. Cf. Broughton, MRR 2.112 and P. von Rohden, *Arrius* 7, PRE II (1896) 1252 (who quotes Scholiasta Gronovianus B on Cic. Div. Caec. 3: *Triennio enim Verres egit praeturam in Sicilia, unum annum suum, alterum propter Arri mortem, qui successurus Verri iter faciens in Siciliam in via decessit, tertium propter fugitivos. Alii autem aiunt: secundum propter fugitivos et tertium propter Arrium*). Text from Ciceronis orationum scholiastae ... ed. T. Stangl, Vienna 1912, 324.11-14. Despite the scholiast's hesitancy (and probable inaccuracy about the reason for Arrius's delay [for which see Liv. Per. 96 on his military action against Spartacus]), it is apparent Gavius was crucified in either 72 or 71. Cic. Ver. 2.4.42, Liv. Per. 96 (96.17-20 Rossbach).

⁵⁶ Cic. Ver. 2.5.168.

⁵⁷ Cic. Ver. 2.5.168. Trans. of Greenwood, Cicero, 2.655.

⁵⁸ Cic. Ver. 2.5.169. See chapt. 1 § 1.6.

⁵⁹ Lact. Inst. 4.18.7. Cf. chapt. 5 § 1.3 on the crucifixion of citizens.

⁶⁰ Cic. Ver. 2.1.7. Trans. of Greenwood, Cicero, 1.127. Cp. 2.1.9 ... *cum tot homines innocentis necarit, cum civis Romanos morte, cruciatu, cruce adfecerit* (though he has ... butchered a multitude of innocent persons, slain and tortured and crucified citizens of Rome) (trans. of Greenwood, Cicero, 1.131). 2.3.6 *qui civium Romanorum iura ac libertatem sanc-*

Before Verres' trial was finished he went into voluntary exile where he later died under the proscriptions in 43.⁶¹

2.10.4 Slaves Set Free from the Cross

During the revolt, Verres arrested some slaves, pronounced them guilty after their trial and then let them go:

What is the next step? The lash, the fire, and that final stage in the punishment of the guilty and the intimidation of the rest, the torments of crucifixion. And from all these penalties those men were set free.

*Quid deinde sequitur? Verbera atque ignes et illa extrema ad supplicium damnatorum, metum ceterorum, cruciatus et crux. Hisce omnibus suppliciis sunt liberati.*⁶²

Cicero's text indicates the dreary process of Roman crucifixion which probably often included scourging before the suspension of the individual.⁶³

2.11 Theodotus of Chios/Samos

Cassius crucified the rhetorician Theodotus of Chios, tutor of Ptolemy (XIII), who with Pothinas and Achillas had plotted against the life of Pompey (after the defeat of Pharsalus in 48 B.C.E.).⁶⁴ Caesar executed Pothinas and Achillas, but, "Theodotus escaped and was afterward crucified by Cassius, who found him wandering in Asia" (Θεόδοτον δὲ διαδράντα Κάσσιος ὕστερον ἐκρέμασεν, εὐρὼν ἐν Ἀσίᾳ).⁶⁵ Theodotus as a *peregrinus* (non Roman citizen) was subject to crucifixion.

tam apud omnis haberi velit, is non tibi plus etiam quam inimicus esse debeat, cum tua verbera, cum securis, cum cruces ad civium Romanorum supplicia fixas recordetur? (Shall one who would have the rights and liberties of Roman citizens held sacred everywhere not inevitably be your enemy, and more than your enemy, when he remembers how you dealt with Roman citizens, scourging them, beheading them, setting up crosses to crucify them? trans. of Greenwood, Cicero, 2.9). On his crucifixions of Roman citizens, cf. L. R. Taylor, *Party Politics in the Age of Caesar*, Berkeley et al. 1949, 111.

⁶¹ J. Baartels, Verres, C., Brill's New Pauly 15 (2010) 322-3 with ref. to Ps. Asconius (205 Stangl), Sen. Suas 6.3, 24 and Plin. H.N. 34.6. Cf. chapt. 1 § 1.6.

⁶² Cic. Ver. 2.5.14. Trans. of Greenwood, Cicero, 2.483-485. Cf. Levens, Cicero, 74 (on 2.5.10) *ad palum alligantur*: "'bound to the stake' for flogging, as a preliminary to crucifixion." With ref. to 2.5.12 *ad more maiorum*: "*Cruciatus* denotes the agony of being nailed to the cross, *crux* that of hanging on the cross," (ibid., 77).

⁶³ Cf. chapt. 6 § 1.2.

⁶⁴ Appian Bell. civ. 2.84/354 (II, 221,5 Mend./Vier.): Theodotus was from Samos. Plutarch (Pomp. 77.2): he was from Chios.

⁶⁵ Appian Bell. civ. 2.90/377 (II, 226,17-8 Mend./Vier.). Trans. of White, Appian's Roman History, 3.393. Plutarch Pomp. 80.6 attributes the execution to M. Brutus and does not specify the manner of death. Cp. Brut. 33.5-6. Cf. R. W. Smith, *The Art of Rhetoric in Alexandria. Its Theory and Practice in the Ancient World* 1974, 39 and F. Münzer, *Theodotus* (14) PRE 2nd Ser. V (1934) 1956-1957. On Ptolemy XIII, cf. T. C. Skeat, *Notes on Ptolemaic*

2.12 *Alexander, servus*

An undated (Republican era) account in Valerius Maximus describes the crucifixion of a slave:

On the other hand Alexander, a slave of P. Atinius, suspected of the murder of C. Flavius, a Roman knight, being tortured six times, denied to the end that he was culpable of the crime. It was as if he had confessed; he was condemned by the judges and led to the cross by the prison triumvir L. Calpurnius.⁶⁶

Contra P. Atinii servus Alexander, cum in [hanc] suspicionem C. Flavii equitis Romani occisi uenisset, sexies tortus pernegavit ei se culpae ad finem fuisse, sed perinde atque confessus <ess>et, a iudicibus damnatus et a L. Calpurnio triumviro in crucem actus est.

Murder was an acceptable reason in Roman society for crucifying a slave.⁶⁷

2.13 *Pirates*

Another undated narrative may describe the execution of pirates in 74, if it refers to Marcus Antonius (the father of the triumvir) Creticus's activities in Crete. The Cretans had assisted the pirates, and Antonius experienced enough success (although not much) that he was acclaimed *Creticus*.

The most notorious were either hung from the mast and flogged or fastened high up in the prow on a *patibulum* [cross with a horizontal bar] without being tortured first.

*in quis notissimus quisque ex malo dependens verberabatur aut immutato corpore in prori patibulo eminens adflegebatur.*⁶⁸

Although Bertold Maurenbrecher thinks this fragment should be ascribed to the victory in Crete of M. Antonius, Pompey's wars against the pirates in 67 are another option. Plutarch, however, claims he did not execute them.⁶⁹

Chronology: III "The First Year is also the Third" A Date in the Reign of Cleopatra VII, JEA 48 (1962) 100-105.

⁶⁶ V. Max. 8.4.2. For the trial and the possible identity of C. Flavius, cf. Alexander, Trials in the Late Roman Republic, 181-2 and F. Münzer, C. Flavius (12) PRE VI/2 (1909) 2526 (possibly to be identified with the equestrian from Asta in Spain who in 45 left Pompey's sons for Caesar [B. Hisp. 26.2]). Another possibility is C. Flavius Pusio (F. Münzer, C. Flavius Pusio [158], PRE VI/2 [1909] 2610).

⁶⁷ Cp. Hor. Ep. 1.16.46-8 (chapt. 1 § 1.10).

⁶⁸ Sal. Hist. 3, frag. 9 (BiTeu, 113 Maurenbrecher who reads *improbe* [shamelessly] for *in prori* [in the prow] in Nonius [which itself was a conjecture of L. Müller]). The MSS have *improbi*. Trans. modified of Hengel, Crucifixion, 41. Cp. Non. De compendiosa doctrina IV (BiTeu II, 582,12-18 Lindsay = 366 Müller) and Appian Sic. frag. 6.1-2 (I, 60,21-61,5 Vier./Roos). Cf. intro. § 3.1 on *patibulum*.

⁶⁹ Plutarch Pomp. 24.1-28.4, with the refusal to execute them in 28.3. He stopped Metellus (29.1) who as στρατηγός (general) had, however, been killing them in Crete. Crucifixion was a frequent punishment for piracy (Hengel, Crucifixion, 49).

2.14 The Battle of Ucubis (45 B.C.E.)

In Caesar's war against the Pompeians in Spain, at the battle of Ucubis⁷⁰ after his troops suffered a minor setback, Caesar had some executions carried out:

On that night four spies were captured, three slaves and one from the legion that had been locally levied; the slaves were crucified [raised to a cross], and the soldier's neck was severed.

*Ea nocte speculatores prensi serui III et unus ex legione Vernacula. serui sunt in crucem sublati militi ceruices abscisae.*⁷¹

The difference in status of the four individuals clearly results in different forms of execution.

2.15 The Triumvirate (43-32)⁷²

2.15.1 Troublemakers in Rome

There were disturbances in Rome after Caesar's assassination on 15 March 44 among those who wanted to honor his memory.

Finally Antony sent more soldiers and some of those who resisted were killed, others were captured, and of these the slaves were crucified and the freemen thrown over the Tarpeian rock.

... ἔως ἐτέρων ἐπιπεμφθέντων ἐξ Ἀντωνίου ἀμυνόμενοι τε ἀνῆρέθησαν ἔνιοι καὶ συλληφθέντες ἕτεροι ἐχρεμάσθησαν, ὅσοι θεράποντες ἦσαν, οἱ δὲ ἐλεύθεροι κατὰ τοῦ κρημνοῦ κατερρίφησαν.⁷³

The Tarpeian Rock was infamous.⁷⁴ On 1 May 44 Cicero wrote Atticus on the occasion of P. Cornelius Dolabella's suppression of the Caesarian riots. Dolabella had taken on the office of consul.

My wonderful Dolabella! Now I call him mine – before, I can tell you, I had lurking doubts! This affair really gives people something to think about! Over the Rock with them, on to the cross with them, away with the pillar, contract for paving the site! Why, it's Homeric! He seems to me to have quashed that affectation of regret for Caesar which was spreading from day to day. I was afraid it might become a danger to our tyrannicides if it took root.

⁷⁰ R. C. Knapp, Roman Córdoba, U. of California Publications: Classical Studies 30, Berkeley et al. 1983, 28.

⁷¹ B. Hisp. 20.5.

⁷² T. J. Cadoux and A. W. Lintott, Art. triumviri, OCD³: their date is from 43 to ("probably") 1 Jan. 32.

⁷³ Appian Bell. civ. 3.3/9 (II, 295,10-4 Mend./Vier.). Trans. of White, Appian's Roman History, 3.523.

⁷⁴ On the Tarpeian Rock, cf. L. Richardson, A New Topographical Dictionary, s.v. Tarpeia Rupes, 377-8 and Cantarella, I supplizi, 238-63.

*O mirificum Dolabellam meum! iam enim dico meum; antea, crede mihi, subdubitabam. magnam ἀναθεώρησιν res habet: de saxo, in crucem, columnam tollere, locum illum sternendum locare! quid quaeris? heroica. sustulisse mihi videtur simulationem desiderii, adhuc quae serpebat in dies et inveterata verebar ne periculosa nostris tyrannoctonis esset.*⁷⁵

In a letter of 2 May 44 Cicero writes Atticus that Brutus could now walk in the forum without fear:

It looks to me as though our Brutus can now walk through the Forum with a crown of gold upon his head. Who would dare molest him and risk the cross or the Rock, especially when the lower orders manifest such enthusiastic approval?

*mihi quidem videtur Brutus noster iam vel coronam auream per forum ferre posse. quis enim audeat violare proposita cruce aut saxo, praesertim tantis plausibus, tanta approbatione infimorum?*⁷⁶

Presumably the slaves were crucified and the freemen thrown from the Rock.⁷⁷ Cicero's letters show that Appian refers to crucifixion with the verb *ἐκρεμάσθησαν* (cf. intro § 2.2).

2.15.2 A Slave who betrayed his Master, a Proscribed Landowner (ca 43)

After the execution of Caesetius Rufus by Antony, a landowner was proscribed.⁷⁸ A slave tried to save the landowner and disguised himself as his master. Another slave betrayed his master to the murderous throng:

In this way the master was killed, but the people were so indignant that they gave the triumvirs no rest until they had obtained from them the crucifixion of the slave who had betrayed his master, and the freedom of the one who had tried to save him.

ἀναιρεθέντος δὲ ὧδε τοῦ δεσπότου, ὁ δῆμος ἀγανακτῶν παρὰ τοῖς ἄρχουσιν οὐκ ἐπάύετο, μέχρι τὸν μὲν ἐνδείξαντα κρεμάσθηναι, τὸν δὲ περισώσαντα ἐλευθερώσαι ἐποίησεν.⁷⁹

⁷⁵ Cic. Att. 14.15.1, trans. of Cicero, Letters to Atticus, vol. 4, LCL, ed. D. R. Shackleton Bailey, Cambridge, MA/London 1999, 185. Suet. Iul. 75 writes that after Caesar's assassination, people raised a column 20 feet high to him in the Forum with the inscription *PARENTI PATRIAE* (to the father of the country).

⁷⁶ Cic. Att. 14.16.2. Trans. of Shackleton Bailey, Cicero, vol. 4.187.

⁷⁷ Cp. Cic. Phil. 1.5 for Dolabella's punishment of the reckless and guilty slaves and the vile and wicked freemen, along with the destruction of that accursed column ... *talīs animaduersionis fuit Dolabellae cum in audacis sceleratosque seruos, tum in impuros et nefarios liberos, talisque euersio illius execratae columnae* ... Cf. J. J. Ramsey, Philipppics I-II, Cambridge 2003, 92: the "slaves were crucified, the freemen were hurled from the Tarpeian Rock."

⁷⁸ On the proscription of C. Rufus see R. Bauman, Women and Politics in Ancient Rome, London 1992, 85. Cp. V. Max. 9.5.4. This narrative follows the execution of Cicero on 7 Dec. 43.

⁷⁹ Appian Bell. civ. 4.29/126 (II, 416,4-8 Mend./Vier.). Trans. of White, Appian's Roman History, 4.191.

The slave was crucified for abetting the murder of his master, and the episode perhaps illustrates Seneca's comment (Ep. 47.5), "as many enemies as you have slaves" (cf. chapt. 1 § 2.25).

2.15.3 *Slaves Masquerading as Soldiers*

Later during the triumvirate a consul was directed to stop the abuses of soldiers against individuals who had not been proscribed:

The consul did not dare touch the soldiers lest he should excite their rage against himself, but he seized and crucified certain slaves who were masquerading as soldiers and committing outrages in company with them.

ὁ δὲ τῶν μὲν ὀπλιτῶν ἔδεισεν ἄψασθαι, μὴ σφᾶς ἐφ' ἑαυτὸν παροξύνῃ, τῶν δὲ θεραπόντων τινάς, οἳ στήματι στρατιωτῶν συνεξημέρτανον ἐκείνοις, λαβὼν ἐκρέμασε.⁸⁰

Slaves were forbidden to become Roman soldiers.⁸¹

2.15.4 *A Slave Informer*

After Brutus had taken possession of Patara (42 B.C.E.), he demanded gold and silver from the citizens and promised to reward informers. A slave told Brutus about his master's concealed gold. After hearing his mother's plea for her young son:

He allowed them both to depart unharmed and to take their gold with them, and he crucified the slave for officious zeal in accusing his superiors.

... μεθῆκεν ἀμφοτέροισι ἀπαθεῖς ἀπιέναι τὸ χρυσίον φερομένους, τὸν δὲ οἰκέτην ὡς πέρα τοῦ προστάγματος ἐπιβουλεύσαντα τοῖς δεσπόταις ἐκρέμασε.⁸²

The delation of slaves against masters was a difficult issue in the empire.⁸³

2.15.5 *Slaves Allegedly Guilty of Murder*

During his conflict with Antony and Octavian (40/39 B.C.E.), Sextus Pompeius had an apparent enemy, Staius Murcus, killed in Syracuse:

Then Pompeius bribed a tribune and a centurion of Murcus, and sent them to kill him and to say that he had been murdered by slaves. To give credibility to this falsehood he crucified the slaves.

⁸⁰ Appian Bell. civ. 4.35/148 (II, 421,306 Mend./Vier.). Trans. of White, Appian's Roman History, 4.199-201.

⁸¹ Plin. Ep. 10.29-30.

⁸² Appian Bell. civ. 4.81/343 (II, 463,18-21 Mend./Vier.). Trans. of White, Appian's Roman History, 4.277. Cp. Cassius Dio 47.34.4-6.

⁸³ Cf. the discussion in W. L. Westermann, *The Slave Systems of Greek and Roman Antiquity*, Philadelphia 1955, 118 and § 3.18, 3.20 below. Cp. Josephus A.J. 19.12-4, 131.

ὁ δὲ χιλίαρχον καὶ λοχαγὸν αὐτοῦ Μοῦρχου διαφθείρας ἔπεμψεν ἀνελεῖν αὐτὸν καὶ φάσκειν ὑπὸ θεράποντων ἀνηρῆσθαι. ἔς τε πίστιν τῆς ὑποκριδούς τοὺς θεράποντας ἐσταύρου.⁸⁴

Nothing was unusual about the crucifixion of slaves suspected of murder.

2.15.6 Fugitive Slaves in Sextus Pompeius's Army

In 36 Octavian defeated Sextus Pompeius,⁸⁵ and against Sextus's agreement with the senate that the escaped slaves who had helped him be freed, Octavian had them all arrested and returned them to their masters.⁸⁶ Those "whom nobody claimed he caused to be put to death in the cities from which they had absconded" (ὅσους δ' οὐκ ἦν ὁ ληψόμενος, ἔκτεινε παρὰ ταῖς πόλεσιν

⁸⁴ Appian Bell. civ. 5.70/295 (II, 581,9-13 Mend./Vier.). Trans. of White, Appian's Roman History, 4.497. Cf. C. Pelling, The Triumviral Period, CAH² X (1996) 1-69, esp. 20. Cp. Cic. Fam. 4.12, Tac. Ann. 13.32, 14.42-5 (*vetere ex more* [by ancient custom]) killing all the slaves of a murdered master). See Ulpian 50 Ad edict. apud Dig. 29.5.1.pr. and J. G. Wolf, Das Senatusconsultum Silanianum und die Senatsrede des C. Cassius Longinus aus dem Jahre 61 n. Chr. Vorgetragen am 17. Januar 1987, SHAW.PH, Heidelberg 1988, 10, 12, with ref. to Mommsen, Strafrecht, 918-21 who argues that slaves of murdered masters were first tortured and then crucified. A number of texts on the S. C. Silanianum are collected in W. Eck and J. H. Heinrichs, ed., Sklaven und Freigelassene in der Gesellschaft der römischen Kaiserzeit, TzF 61, Darmstadt 2005, 138-48.

⁸⁵ T. J. Cadoux and R. J. Seager, Pompeius Magnus (Pius), Sextus, OCD³, 1216-1217. Cf. R. D. Weigel, Lepidus. The Tarnished Triumvir, London 2002, 86 on Octavian's deposition of Lepidus in 36 and *ibid.* 86-88 on the campaign against Sextus Pompeius. Cp. Hengel, Crucifixion, 55-56 who notes that Augustus, in the Anc. 25.1 only says that he returned 30,000 slaves to their masters for punishment (*triginta fere milia capta dominis ad supplicium sumendum tradidi*). The slaves had taken up arms against the republic and escaped from their masters in the war of the slaves (*eo bello servorum, qui fugerant a dominis suis et arma contra rem publicam ceperant*). They were in Sextus's army, and probably most were crucified by their masters. Cp. the phrase in the *lex Puteolana* (chapt. 5 § 1.4) for an owner wishing to have a male or female slave crucified at his/her own expense: *qui supplic(ium) de ser(vo) servave privatim sumer(e) volet*. The *lex* indicates how cheap it was for an owner to pay to have a slave crucified and is from the Augustan or perhaps the Julio-Claudian era. Cf. Cook, Envisioning Crucifixion, 265. Eck and Heinrichs, Sklaven, 149 argue that the masters would have crucified the slaves, with ref. to Cassius Dio 49.12.4-5.

⁸⁶ On the context and the "official interpretation" of the conflict as a slave war, cf. the commentary in Res Gestae Divi Augusti: Text, Translation, and Commentary, A. E. Cooley, Cambridge et al. 2009, 214 (with ref. to 27.3 *bello servili*) and Res Gestae Divi Augusti ... Texte établi et traduit, CUFr, ed. J. Scheid, Paris 2007, 67-68 (e.g.: the agreement with the senate became null and void; most sailors in war ships were slaves; only the slaves' legal masters had the right to make the decision to punish them). Most of the slaves were probably condemned to death. See L. Schumacher, Sklaverei in der Antike. Alltag und Schicksal der Unfreien, Munich 2001, 288.

αὐταῖς, ὧν ἀπέδρασεν), according to Appian.⁸⁷ Cassius Dio describes Octavian's deposition of Lepidus and continues:

... those who were slaves were delivered to their masters for punishment. If his owner was not found, he was crucified.

... τὸ δὲ δεδουλευκὸς τοῖς δεσπόταις πρὸς τιμωρίαν ἀπεδόθη· εἰ δέ του μηδεὶς κύριος εὕρισκετο, ἀνεσκολοπιζέτο.⁸⁸

Orosius has a tradition concerning the numbers crucified:

Caesar then had 44 legions under his sole command. The troops, made more restive by their numbers, started to riot and demand that land be given to them. Caesar kept his nerve, discharged 20,000 soldiers, restored 30,000 slaves to their masters, and crucified another 6,000 whose masters could not be found.

*Quadraginta et quattuor legiones sub unius tunc imperio Caesaris erant; milites, multitudine ferociiores, quosdam pro accipiendis agris tumultus excitauerunt; sed Caesar, animo ingens, uiginti milia militum exactorauit, triginta milia seruorum dominis restituit, sex milia, quorum domini non exstabant, in crucem egit.*⁸⁹

6,000 seems reasonable given the probability that many of the 30,000 were crucified by their masters.

2.16 Theodorus paedagogus

When Octavian triumphed in Alexandria (30 B.C.E.), a tutor was crucified who had betrayed one of Mark Antony's sons:

As for the children of Antony, Antyllus, his son by Fulvia, was betrayed by Theodorus his tutor and put to death; and after the soldiers had cut off his head, his tutor took away the exceeding precious stone which the boy wore about his neck and sewed it into his own girdle; and though he denied the deed, he was convicted of it and crucified.

Τῶν δ' Ἀντωνίου παίδων ὁ μὲν ἐκ Φουλβίας Ἄντυλλος ὑπὸ Θεοδώρου τοῦ παιδαγωγοῦ παραδοθεὶς ἀπέθανε· καὶ τὴν κεφαλὴν αὐτοῦ τῶν στρατιωτῶν ἀποτεμνόντων, ὁ παιδαγωγὸς ἀφελὼν ὃν ἐφόρει περὶ τῷ τραχήλῳ πολυτιμότατον λίθον εἰς τὴν ζώνην κατέρραψεν· ἀρνησάμενος δὲ καὶ φωραθεὶς ἀνεσταυρώθη.⁹⁰

As a *paedagogus*, Theodorus died a slave's death.

⁸⁷ Appian Bell. civ. 5.131/545 (II, 633,13-5 Mend./Vier.). Trans. of White, Appian's Roman History, 4.595.

⁸⁸ Cassius Dio 49.12.4-5.

⁸⁹ Orosius 6.18.33. Trans. of Fear, Orosius, 305.

⁹⁰ Plutarch Ant. 81.1-2. Trans. of Plutarch's Lives, vol. 9, LCL, ed. and trans. B. Perrin, Cambridge, MA/London 1920, 319. Cf. F. Münzer, Theodorus 14, PRE 2nd Ser. V (1934) 1808.

3 Imperium

3.1 Augustus (27 B.C.E.-14 C.E.)

3.1.1 Cantabrian Prisoners

During the Cantabrian wars (26-19 B.C.E.) in Spain, the Romans crucified some of their prisoners, according to Strabo:

This indication of madness is reported of the Cantabrians: when some were captured and fixed to crosses, they chanted songs of victory.

τῆς δ' ἀπονοίας καὶ τοῦτο λέγεται τῆς Καντάβρων, ὅτι ἀλόντες τινὲς ἀναπεπηγότες ἐπὶ τῶν σταυρῶν ἐπαιάνιζον.⁹¹

The text refers to crucifixion and not impalement, because of the detail about the songs. Another indication of their “cruelty and savage madness” (ὠμότητα καὶ ἀπόνοιαν θηριώδη) for Strabo is that rather than be captured Cantabrian mothers killed their children and boys killed their parents and brothers when commanded by their fathers.⁹²

3.1.2 An Unfaithful Slave

In 22 B.C. Fannius Caepio and others conspired against Augustus. He and his co-conspirators were put to death. A slave was crucified by Caepio's father:

... at any rate, when Caepio's father freed one of the two slaves who had accompanied his son in his flight because this slave had wished to defend his young master when he met with death, but in the case of the second slave, who had deserted his son, led him through the midst of the Forum with an inscription making known the reason why he was to be put to death, and afterwards crucified him, the emperor was not vexed.

τοῦ γοῦν πατὴρ τοῦ Καίπιωνος τὸν μὲν ἕτερον τῶν δούλων τῶν συμφυγόντων τῷ υἱεὶ ἐλευθερώσαντος, ὅτι ἀμυναὶ οἱ θνήσκοντι ἠθέλησε, τὸν δὲ ἕτερον τὸν προδόντα αὐτὸν διὰ τε τῆς ἀγορᾶς μέσης μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως αὐτοῦ δηλούντων διαγαγόντος καὶ μετὰ ταῦτα ἀνασταυρώσαντος, οὐκ ἠγανάκτησε.⁹³

The tablet with the written charge was Roman practice and may possibly have been placed above the cross.⁹⁴

⁹¹ Strabo 3.4.18. Cf. S. J. Keay, *Art. Cantabri*, ³OCD, 286-287.

⁹² Strabo 3.4.17.

⁹³ Cassius Dio 54.3.7. Trans. of Dio's Roman History, vol. 1-9, LCL, ed. and trans. E. Cary, Cambridge, MA/London 1917-1927, 6.291. Cf. C. White, *Imperial Ideology and Provincial Loyalty in the Roman Empire*, Berkeley, CA et al. 2000, 140-141.

⁹⁴ Cf. Cook, *Roman Attitudes*, 167, chapt. 6 § 1.2 with the ref. to [Quint.] Decl. min. 380.2 (cp. chapt. 1 § 2.8).

3.1.3 Varus and the 2,000

In 4 B.C.E., after the death of Herod, Quintilius Varus, the governor of Syria, crucified 2,000 of the guiltiest because of an insurrection, according to Josephus:

Varus sent part of the army throughout the land seeking the instigators of the sedition. And when they were discovered, some he punished as the guiltiest, but others he released. He crucified two thousand on this charge.

Οὕτως δὲ κατὰ τὴν χώραν πέμψας τοῦ στρατοῦ μέρος ἐπεζήτηι τοὺς αἰτίους τῆς ἀποστάσεως. καὶ σημεινομένων τοὺς μὲν ἐκόλασεν ὡς αἰτιωτάτους, εἰδὶ δ' οὓς καὶ ἀφῆκεν· ἐγίνοντο δὲ οἱ διὰ ταύτην τὴν αἰτίαν σταυρωθέντες δισχιλίοι.⁹⁵

The version in the *Bellum* reads:

Varus now detached part of his army to scour the country in search of the authors of the insurrection, many of whom were brought in. Those who appeared to be the less turbulent individuals he imprisoned; the most culpable, in number about two thousand, he crucified.

Οὕτως δὲ κατὰ μοῖραν τῆς στρατιᾶς ἐπὶ τοὺς αἰτίους τοῦ κινήματος ἔπεμψεν περὶ τὴν χώραν, καὶ πολλῶν ἀγομένων τοὺς μὲν ἤττον θορυβώδεις φανέντας ἐφρούρει, τοὺς δὲ αἰτιωτάτους ἀνεσταύρωσεν περὶ δισχιλίους.⁹⁶

It was apparently usual Roman practice for the leaders of the sedition (*auctores seditionis*) to be crucified (cf. § 2.2 above).

3.1.4 Eros (*peregrinus*)

An administrator in Egypt (a *dioiketes*), probably of a private estate, named Eros, behaved particularly atrociously in Augustus's eyes.⁹⁷

When it was told him that Eros, *dioiketes* in Egypt, had bought a quail which had defeated all others in fighting and was the undisputed champion, and that Eros had roasted this quail and eaten it, the emperor sent for him and examined him regarding the charge; and when the man admitted the fact, the emperor ordered him to be nailed to a ship's mast.

⁹⁵ Josephus A.J. 17.295.

⁹⁶ Josephus Bell. 2.75. Trans. of Josephus, II. The Jewish War. Books I-III; III. The Jewish War. Books IV-VII, LCL, ed. and trans. H. St. J. Thackeray, Cambridge, MA/London 1927-1928, 2.351. Cf. Chapman, Ancient Jewish and Christian Perceptions, 70-71 and Kuhn, Die Kreuzesstrafe, 707.

⁹⁷ Cf. Stein, Eros 9, PRE VI/1 (1907) 543 with ref. to P.Oxy. II, 291,15 Τυράννῳ διοικητῇ (Tyrannos the dioiketes). PIR² E 86 identifies Eros as a procurator (i.e., chief financial officer of Egypt). D. Hagedorn thinks that use of the term only began with the second century C.E. He lists five other papyrological occurrences of διοικητής from I C.E. (Zum Amt des διοικητής im römischen Aegypten, YCS 28 [1985] 167-210, esp. 188 n.60) in private letters – none of which specify the function of the official. The individuals are all Greeks and not equestrians. Hagedorn cautions against using Plutarch's text (because of its ambiguity and genre) to make historical conclusions. He argues that the five letters indicate the individuals administered private possessions (ibid., 189 n. 2).

Ἀκούσας δὲ ὅτι Ἔρως ὁ τὰ ἐν Αἰγύπτῳ διοικῶν ὄρυγα τὸν κρατοῦντα πάντων ἐν τῷ μάχεσθαι καὶ ἀήττητον ὄντα περιάμενος ὀπτήσας κατέφαγε, μετεπέμψατο αὐτὸν καὶ ἀνέκριεν· ὁμολογήσαντα δ' ἐκέλευσεν ἱστῶ νηὸς προσηλωθῆναι.⁹⁸

Kuhn refers to a dream interpretation of Artemidorus:

Being crucified is a good thing for all sailors. For a cross is made from posts and nails like a ship, and its mast is like a cross.

Σταυροῦσθαι πᾶσι μὲν τοῖς ναυτιλλομένοις ἀγαθόν· καὶ γὰρ ἐκ ξύλων καὶ ἥλων γέγονεν ὁ σταυρὸς ὡς καὶ τὸ πλοῖον, καὶ ἡ κατάρτιος αὐτοῦ ὁμοία ἐστὶ σταυρῷ.⁹⁹

Justin, in a discussion of symbols of the cross, includes the mast of a ship: “The sea is not ploughed [i.e., traversed] without it, unless this trophy which is called a mast remains safe in the ship (θάλασσα μὲν γὰρ οὐ τέμνεται, ἦν μὴ τοῦτο τὸ τρόπαιον, ὃ καλεῖται ἱστίον, ἐν τῇ νηὶ σῶον μείνη·).¹⁰⁰

3.2 Tiberius (14-37)

3.2.1 Ida and the Priests of Isis (19 C. E.)

In 19 C.E. Decius Mundus, a member of the equestrian order in Rome conceived a passion for a married Roman matron named Paulina. A freedwoman of Mundus, Ida, resolved to help him consummate his desires. She, with her patron’s money, bribed the priests of Isis into telling Paulina that Anubis wanted to have intercourse with her. Mundus made the mistake of bragging about his success to Paulina several days later. Tiberius crucified Ida and the priests of Isis, then had their temple torn down and Isis’ statue thrown into the Tiber. Mundus only suffered exile because Tiberius accepted his youthful passion as a mitigating circumstance. Presumably the priests were *peregrini*.¹⁰¹

When Tiberius had fully informed himself by examining the priests, he crucified both them and Ida, for the hellish thing was her doing, and it was she who had contrived the whole plot against the lady’s honour.

⁹⁸ Ps. Plutarch Reg. imp. apoph. 207B. Trans. of Babbitt, Plutarch’s Moralia, 3.231-233. D. A. Russell, Plutarch, London 1973, 166 argues that the “whole work is spurious even if it uses Plutarch’s material.”

⁹⁹ Artemidorus Onir. 2.53. Kuhn, Die Kreuzesstrafe, 702 (Hengel missed the “crucifixion” of Eros).

¹⁰⁰ Justin 1 Apol. 55.3 (110,8-9 Marcovich). Cp. the usage of ἵχρια for “cross” (a word that can also mean ἱστός, “mast”) in Eus. H.E. 8.8.1 in § 3.24.1 below. See also Lucian Cat. 13 where ἱστῶν is used in an image of crucifixion (chapt. 3 § 2.10) and the discussion in intro. § 2.1.

¹⁰¹ Hengel, Crucifixion, 60.

καὶ ὁ Τιβέριος μαθήσεως ἀκριβοῦς αὐτῷ γενομένης ἐξετάσει τῶν ἱερέων ἐκείνους τε ἀνεσταύρωσεν καὶ τὴν Ἰδην ὀλέθρου γενομένην αἰτίαν καὶ τὰ πάντα ἐφ' ὅβρει συνθεῖσαν τῆς γυναικὸς ...¹⁰²

Tacitus gives no details of the executions, but mentions the expulsion of the worshippers of Isis and the forced exile of descendants of slaves who adhered to the Isis cult (or Judaism) to fight brigands in Sardinia.¹⁰³

3.2.2 *Gnaeus Calpurnius Piso* (legatus Augusti pro praetore in Syria, 17-19 C.E.)

Piso, the legate in Syria, crucified some soldiers without trial according to the Roman Senate:

Also evidenced was the unexampled cruelty [of a man] who had inflicted capital punishment on many without their cases having been heard, without the recommendation of his advisors, and fastened [nailed] to a cross not only non-citizen [soldiers] but even a centurion, a Roman citizen;¹⁰⁴

(49) ... *perspecta etiam crudelitate unica qui incognita caussa¹⁰⁵ sine consili sententia plurimos capitibus supplicio adfecisset neq(ue) externos tantummodo sed etiam centurionem c(ivem) R(omanum) cruci fixisset¹⁰⁶; ...¹⁰⁷*

The *externi* were auxiliary soldiers.¹⁰⁸ The province, however, no longer belonged to Piso, and he was in a struggle against Sentius Saturninus, the new governor of Syria.¹⁰⁹

¹⁰² Josephus A.J. 18.65-80. Text from 18.79. Trans. of Josephus, *Jewish Antiquities* XVIII-XIX, vol. 9, LCL, ed. and trans. L. H. Feldman, Cambridge, MA/London 1965, 57. Cf. Kuhn, *Die Kreuzesstrafe*, 702-703.

¹⁰³ Tac. Ann. 2.85.5. Suet. Tib. 36.1 only mentions Jewish expulsions, although the Isis cult was suppressed in his version. Cf. M. Stern, ed., *Greek and Latin Authors on Jews and Judaism*. Vol. 2, From Herodotus to Plutarch, Jerusalem 1974, § 306, M. Smallwood, *The Jews under Roman Rule. From Pompey to Diocletian. A Study in Political Relations*, Leiden 1981, 202-204, and Cook, *Roman Attitudes*, 51.

¹⁰⁴ Das Senatus consultum de Cn. Pisone patre, ed. W. Eck, A. Caballos, and F. Fernández Gómez; *Vestigia* 48; Munich 1996, 49-52, p. 42 (text), 169-172 (commentary) and cp. D. S. Potter, ed. and C. Damon, trans., *The Senatus Consultum de Cn. Pisone Patre*, *AJP* 120 (1999) 13-41, esp. 20-22.

¹⁰⁵ causa A, caussa B l. 41. For the text of A see Eck, *Das Senatus Consultum*, 13 and for B see *ibid.*, 26. Cf. *ibid.*, 1-3 on copy A and 3-6 on copy B.

¹⁰⁶ fixisset A, fixi[...] B l. 42-43. Cf. Eck, *ibid.*, 13, 26.

¹⁰⁷ Cp. Cook, *Envisioning Crucifixion*, 272-273. See Eck, *ibid.*, 157-158 on Piso's position as legate. Cf. Tac. Ann. 2.43.2, 2.69.1-2. for Piso's length of service in Syria and *PIR*² C 287 Cn. Calpurnius Piso.

¹⁰⁸ Eck, *Das Senatus Consultum*, 170.

¹⁰⁹ Eck, *Das Senatus Consultum*, 171. He argues that the context (lines 45-52) of the *SCCPP* illuminates the crucifixions. After Germanicus's death Piso sought to regain control of Syria and "Roman soldiers were forced to fight Roman soldiers" (l. 49: *milites R[omani]*

Seneca describes an incident, which may be the same narrative to which the *SCCPP* refers, in which a soldier returned from leave without his companion. Suspecting murder, Piso ordered the soldier's execution (*duci iussisset*). While "in the act of presenting his neck" (*iam cervicem porrigibat*) the missing soldier returned, and the centurion brought the alleged murderer back to Piso who then had all three executed:

Piso mounted the tribunal in a rage, and ordered both soldiers to be led to execution, the one who had done no murder and the one who had escaped it! ... But Piso added also a third; for he ordered the centurion who had brought back the condemned man to be executed as well.

*Conscendit tribunal furens Piso ac iubet duci utrumque, et eum militem qui non occiderat et eum qui non perierat. ... Nam ipsum centurionem, qui damnatum reduxerat, duci iussit.*¹¹⁰

In the following paragraph, although he does not name Piso, Seneca apparently calls him a proconsul:

What if he [a Stoic philosopher Seneca mentions] had seen a proconsul leap down from the tribunal, snatch the fasces from the lictor, and tear his own clothes because some victim's clothes were still unturned!

*quid, si ille vidisset desilientem de tribunali proconsulem et fasces lictori auferentem et suamet vestimenta scindentem, quia tardius scindebantur aliena?*¹¹¹

Werner Eck believes this proves the incident Seneca describes was Piso's proconsulate in Africa.¹¹² It is possible that Seneca is simply inaccurate in his prosopographical detail.¹¹³

3.2.3 Crucifixion of Jesus of Nazareth and the Two Brigands

Jesus was probably executed for *seditio* or some kind of political troublemaking.¹¹⁴ Pilate presumably associated the crime of the two brigands (λησται),

inter se concurrere coacti sunt). Perhaps in the battle against Sentius Saturninus, the new governor of Syria, the centurion refused to take part in battles against Roman troops. Normally, in a battle situation, the Senate would not have objected to Piso's measures against soldiers refusing orders, but in this case the province no longer belonged to Piso.

¹¹⁰ Sen. Dial. 3.18.3-5. Trans. of Seneca, *Moral Essays*, vol. 1, LCL, ed. and trans. J. W. Basore, Cambridge, MA/London 1928, 155.

¹¹¹ Sen. Dial. 3.19.3, trans. of Basore, Seneca, *Moral Essays*, 1.157.

¹¹² Eck, *Das Senatus Consultum*, 170.

¹¹³ Cf. Aubert, *Double Standard*, 117 who believes the incidents are the same. E. Groag in *PIR*² C 287 (p. 60) notes that Seneca's use of *imperator* in Dial. 3.18.6 is problematic (since he was *proconsul Africae*): *qui 18,6 'imperatorem' eum appellat minus accurate*. The issue is far from settled.

¹¹⁴ Cf. Cook, *Crucifixion and Burial*, 198-203 and Kuhn, *Die Kreuzesstrafe*, 733 (Jesus executed as a rebel, based on his analysis of crucifixions in Palestine). Cp. G. Schechter,

whom the Romans would have called *latrones*, with that of Jesus.¹¹⁵ Kuhn's analysis of all the known crucifixions from Josephus in first century Palestine also supports the thesis that Jesus was executed as a rebel.¹¹⁶

An intriguing magic gem made of bloodstone, probably dated to the third century, depicts Jesus on a Tau-shaped cross. His wrists are attached to the cross by "short strips," and his knees hang apart on each side of the vertical beam.¹¹⁷ The cross and position of the knees are nearly identical with the Puteoli graffito (§ 3.14), although in the graffito the ankles are attached to each side of the vertical beam as were those of Jehohanan ben Hagqol (§ 3.4.4). Besides the invocation "Son, Father, Jesus Christ," there are *voces magicæ* (magical words) on both sides of the gem including "Emmanuel." There may be a reference to the suspension of Christ or the strips used to attach him to the horizontal beam.¹¹⁸ Felicity Harley notes the brutality of the

Crux, Brill's New Pauly III (2003) 966: "Inciting rebellion (*seditio*), with which Jesus was charged, was among the serious crimes for which crucifixion was imposed."

¹¹⁵ Mark 15:27 par. Matt 27:38.

¹¹⁶ Kuhn, Die Kreuzesstrafe, 706-718. I will omit discussion of the *Testimonium Flavianum* (A.J. 18.63-4) here as Kuhn, in my view, has said all that is necessary for this book (i.e., that the existence in Josephus of a report of Jesus' crucifixion is probably authentic). J. Meier, Jesus in Josephus: A Modest Proposal, CBQ 52 (1990) 76-103 accepts the passage as authentic (with the exception of some Christian interpolations).

¹¹⁷ Cf. F. Harley and J. Spier, 55. Magical Amulet with Crucifixion, in: Picturing the Bible. The Earliest Christian Art, ed. J. Spier, New Haven 2007, 227-228 (British Museum MME 1986.05.01.1), F. Harley, Images of the Crucifixion in Late Antiquity. The Testimony of Engraved Gems, PhD Diss., U. of Adelaide 2001, 120-148 and F. Harley-McGowan, The Constanza Carnelian and the Development of Crucifixion Iconography in Late Antiquity, in: »Gems of Heaven.« Recent Research on Gemstones in Late Antiquity, AD 200-600, ed. N. Adams/C. Entwistle, London 2011, 214-220, esp. 17-18. The gem is from the collection of Roger Pereire.

¹¹⁸ Obverse: ΥΙΕ / ΠΑΤΗΡ ΙΗ / ΣΟΥ ΧΡΙΣΤΕ / ΣΟΑΜ ΝΘΑ / ΜΘΑΘΙΑ / ΣΗΙΟΥΘ / ΑΡΤΑΝΝΑ / ΥΣ ΙΟΥ / Ι ... Reverse: ΙΘΕ / ΕΥΑΕΥΗ / ...ΝΟΥΙΣΕΥΕ / ...[Β]ΑΔΗΤΟΦΘ / ΘΙΕΣΣΕΤΣΚΗ Ε / ΜΜΑΝΑΥΗΛ Α / ΣΤΡΑΠΕΤΚΜΗ / Φ ΜΕΙΘΑΡ / ΜΕΜΠΕ. Harley and Spier, Magical Amulet, 228-229 (from whom I take the transcription) mention the use of Badetophoth (god of the second hour; cf. PGM 3,503-507 βαζητοφωθ and 3,54) and Satraperkmeph (Great satrap Kmeph). Badetophoth: A. Audollent, Defixionum tabellae, Paris 1904, § 155 A,43-44, B,19, 158,21-22, 243,3; PGM 10,47, 13,176, 13,493; R. W. Daniel and F. Maltomini, Supplementum Magicum II, Papyrologica Coloniensis 16.2, Opladen 1992, § 53,10, SEG 41, 1597,9-10, and a jasper in the Metropolitan Museum (MMA 41.160.641). Satraperkmeph: PGM 12,185, 13,917; Daniel and Maltomini, Supplementum Magicum II, § 66,5. Kmeph, one of Osiris's epithets, appears in PGM 3,142, 471, and 4,1705, 2094 (with "Osiris"). In the Ptolemaic era he is a serpent god (cf. H. J. Thissen, ΚΜΗΦ – Ein verkannter Gott, ZPE 112 [1996] 153-160). Cf. Suda A § 4019 Ἀρτά: ἐπικρέμαται [he hangs]), Pollux Onomasticon 10,108 τὸ σπαρτίον, οὗ λαβόμενός τις ἀνέλκει τὸν ζυγόν, ἀρτάνην ὀνόμαζον (they called the rope by which one draws a yoke ἀρτάνη), and Schol. vet. in Sophocles OT 1066 (BiTeu 208,5 Papageorgius) ἀρτάνην. δεσμόν (bond). ΙΘΕ is a familiar *vox magica*.

depiction of crucifixion along with its “strictly frontal and naked” iconography.¹¹⁹ The image likely reflects the magician’s awareness of contemporary (or recent) Roman practice. See figure 14.

3.3 *Gaius Caligula (18 March 37 – 24 June 41)*

3.3.1 *A Freedman Guilty of Protest*

After Caligula seduced Naevia, the wife of Macro, who was prefect of the praetorian guard, he had an unnamed *libertus* crucified for protesting the murder of the emperor:

Having through her wormed himself into Macro’s favour, he poisoned Tiberius, as some think, and ordered that his ring be taken from him while he still breathed, and then suspecting that he was trying to hold fast to it, that a pillow be put over his face; or even strangled the old man with his own hand, immediately ordering the crucifixion of a freedman who cried out at the awful deed.

*per hanc insinuatus Macroni ueneno Tiberium adgressus est, ut quidam opinantur, spirantique adhuc detrahi anulum et, quoniam suspicionem retinentis dabat, pulvinum iussit iniici atque etiam fauces manu sua oppressit, liberto, qui ob atrocitatem facinoris exclamauerat, confestim in crucem acto.*¹²⁰

Clearly the *libertus* (freedman) was subject to crucifixion although in status he was normally a Roman citizen.¹²¹

3.3.2 *Aulus Avillius Flaccus and the Jews of Alexandria*

Avillius Flaccus, in the fall of 38 C.E., may have become convinced that the Jews were on the verge of a full scale revolt. Whatever his reasons he “withdrew all legal protections for the Jews in Alexandria.”¹²² Philo, in his description of the pogrom against the Jewish community describes the Alexandrians’ dragging the bodies of Jews who had been burned to death or killed by the sword through the streets:

¹¹⁹ Harley, *Images*, 148. She also (*ibid.*, 130) remarks on the extremely rare depiction of Jesus’ genitalia (perhaps not repeated again until the fifteenth century).

¹²⁰ Suet. Cal. 12.2. Trans. of Rolfe, Suetonius, 1.433.

¹²¹ Cf., e.g., Gaius Inst. 1.12, 16-22 and T. Mommsen, *Römisches Staatsrecht*, III/1, Leipzig 1887, 420-57.

¹²² Philo Flacc. 48, 54 and Aubert, *Double Standard*, 120. Cp. E. Schürer, *The History of the Jewish People in the Age of Jesus Christ*, Vol. 1, rev. and ed. G. Vermes, F. Millar, and M. Goodman, Edinburgh 1973, 391. For an extended discussion of the reasons for the persecution (which Philo does not mention), cf. Philo of Alexandria, *Philo’s Flaccus. The First Pogrom. Introduction, Translation and Commentary* by Pieter van der Horst, Brill 2003, 18-37 (e.g., 37: Flaccus was “advised by the leaders of the anti-Jewish Greeks in Alexandria to regain the emperor’s favor by backing them in their actions against the Alexandrian Jews”).

While those who did these things like actors in a farce [theatrical mimes], assumed the part of the sufferers, the friends and kinsmen of the true sufferers, simply because they grieved over the misfortunes of their relations, were arrested, scourged, tortured, and after all these outrages, which were all their bodies could make room for, the final punishment kept in reserve was the cross.

καὶ οἱ μὲν ταῦτα δρῶντες ὥσπερ ἐν τοῖς θεατρικοῖς μίμοις καθυπεκρίνοντο τοὺς πάσχοντας· τῶν δ' ὡς ἀληθῶς πεπονθότων φίλοι καὶ συγγενεῖς, ὅτι μόνον ταῖς τῶν προσήκόντων συμφοραῖς συνήλγησαν, ἀπήγοντο, ἐμαστιγοῦντο, ἐτροχίζοντο, καὶ μετὰ πάσας τὰς αἰκίας, ὅσας ἐδύνατο χωρῆσαι τὰ σώματα αὐτοῖς, ἡ τελευταία καὶ ἔφεδρος τιμωρία σταυρὸς ἦν.¹²³

Flaccus permitted and indulged the atrocities. Philo mentions, as a custom of earlier times, the burial of the crucified before holidays like the birthdays of the Augustan emperors.

I have known cases when on the eve of a holiday of this kind, people who have been crucified have been taken down and their bodies delivered to their kinsfolk, because it was thought well to give them burial and allow them ordinary rites.

ἤδη τινὰς οἶδα τῶν ἀνεσκολοπισμένων μελλούσης ἐνίστασθαι τοιαύτης ἐκχειρίας καθαιρεθέντας καὶ τοῖς συγγενέσιν ἐπὶ τῷ ταφῇ ἀξιοθῆναι καὶ τυχεῖν τῶν νενομισμένων ἀποδοθέντας.¹²⁴

Flaccus did not follow this custom:

But Flaccus gave no orders to take down those who had died on the cross. Instead he ordered the crucifixion of the living, to whom the season offered a short-lived though not permanent reprieve in order to postpone the punishment though not to remit it altogether. And he did this after maltreating them with the lash in the middle of the theatre and torturing them with fire and the sword. The show had been arranged in parts. The first spectacle lasting from dawn till the third or fourth hour consisted of Jews being scourged, hung up, bound to the wheel, brutally mauled and haled for their death march through the middle of the orchestra. After this splendid exhibition came dancers and mimes and flute players and all the other amusements of theatrical competitions.

ὁ δ' οὐ τετελευτηκότας ἐπὶ σταυρῶν καθαιρεῖν, ζῶντας δ' ἀνασκολοπιζεσθαι προσέταττεν, οἷς ἀμνηστίαν ἐπ' ὀλίγον, οὐ τὴν εἰς ἅπαν, ὁ καιρὸς ἐδίδου πρὸς ὑπέροθειν τιμωρίας, οὐκ ἄφεσιν παντελῆ. καὶ ταῦτ' εἰργάζετο μετὰ τὸ πλῆγαις αἰκίσασθαι ἐν μέσῳ τῷ θεάτρῳ καὶ πυρὶ καὶ σιδήρῳ βασανίσαι. καὶ ἡ θέα διενενέμητο· τὰ μὲν γὰρ πρῶτα τῶν θεαμάτων ἄχρι τρίτης ἢ τετάρτης ὥρας ἐξ ἑωθινοῦ ταῦτα ἦν· Ἰουδαῖοι μαστιγούμενοι, κρεμάμενοι, τροχίζόμενοι, καταικίζόμενοι, διὰ μέσης τῆς ὀρχήστρας ἀπαγόμενοι τὴν ἐπὶ θανάτῳ· τὰ δὲ μετὰ τὴν καλὴν ταύτην ἐπίδειξιν ὀρχησται καὶ μῖμοι καὶ αὐληταὶ καὶ ὅσα ἄλλα σκηνηκῶν ἀθύρματα ἀγώνων.¹²⁵

¹²³ Philo Flacc. 72. Trans. of Philo, vol. 1-10, LCL, ed. and trans. F. H. Colson, G. H. Whitaker et al., Cambridge, MA/London 1929-1962, 9.341.

¹²⁴ Philo Flacc. 83. Trans. of Colson, Philo, 9.347-349.

¹²⁵ Philo Flacc. 84-85. Trans. of Colson, Philo, 9.349.

Philo's texts are important not only for the depiction of the tortures that preceded crucifixion but also because of the indication that some victims of crucifixion were buried. His usage of ἀνασκολοπίζω shows that he is describing crucifixions in this text and not impalements (cf. chapt. 3 § 2.3).

3.4 Claudius (41-54)

3.4.1 The Crucifixion of Gaius Silius, consul designate (48 C.E.)?

Claudius's wife Messalina became enamored of a handsome youth, Silius, and "married" him.¹²⁶ Both were executed. In Tacitus's account, "... when Silius was moved up to the platform [tribunal], he attempted no defense, no delay, begging only that his death be speeded up."¹²⁷ The scholiast to Juvenal, however, apparently from ca 400 C.E. (and based on earlier material), knew this tradition:

10.332 (the miserable youth is seized to be killed) Claudius seized this Silius as he passed through the forum and put him to death.

10.333 by Messalina's eyes: while she watched. That is: before her eyes her lover is fastened [or nailed] to a cross.

10.332 (*Rapitur miser extinguendus*) hunc Silium transeuntem per forum rapuit Claudius et necavit.

10.333 *Messalinae o(culis): vidente ipsa. Id est: Ante oculos amatus cruci figitur.*¹²⁸

In Juvenal, which seems more probable, the youth faces beheading.¹²⁹ The scholiast, however, may be better informed due to an unknown source.

3.4.2 Tiberius Alexander, procurator from ?46-48: James and Simon

Tiberius Alexander crucified two individuals, probably for brigandage.¹³⁰

¹²⁶ B. Levick, *Claudius*, New Haven 1990, 67 calls the ceremony a "charade." Cf. Tac. Ann. 11.27 and Suet. Cl. 26.2 (her execution), 29.3 (where Suetonius rejects the claim that Claudius signed the dowry contract [*tabellas dotis*] because of fears of certain portents concerning himself). The scholiast passes on the tradition of Claudius's signature (Scholia in Iuv. 10.330 [180,26-181,3 Wessner]) with no critical comment. Cp. the account of Messalina's paramours in Cassius Dio 60.31.1-3.

¹²⁷ Tac. Ann. 11.35.2 *admotusque Silius tribunali non defensionem, non moras temptavit, precatus ut mors adceleraretur*. Trans. of A. J. Woodman, *Tacitus: The Annals*, Indianapolis/Cambridge, MA 2007, 212.

¹²⁸ Scholia in Iuv. 10.332-3 (181,3-6 Wessner). On the scholiast's date, cf. Wessner, Scholia, xxxvi-xlv and D. Wiesen, *Juvenal* 10. 358, CP 64 (1969) 73-80, esp. 74 who notes that the commentary is composed from still older materials. On Silius's office and good looks, cf. Tac. Ann. 11.5.3, 11.12.2.

¹²⁹ Iuv. 10.329-345, esp. 345 *praebenda est gladio pulchra haec et candida cervix*. The scholiast does not comment on that verse.

¹³⁰ Schürer, *History*, 1.456-458, Smallwood, *The Jews*, 459 the sons "evidently began showing signs of following in their father's footsteps."

Besides this, James and Simon, the sons of Judas the Galilaean, were brought up for trial and, at the order of Alexander, were crucified. This was the Judas who, as I have explained above, had aroused the people to revolt against the Romans while Quirinius was taking the census in Judaea.

πρὸς τούτοις δὲ καὶ οἱ παῖδες Ἰούδα τοῦ Γαλιλαίου ἀνήχθησαν τοῦ τὸν λαὸν ἀπὸ Ῥωμαίων ἀποστήσαντος Κυρινίου τῆς Ἰουδαίας τιμητέουτος, ὥς ἐν τοῖς πρὸ τούτων δεδηλώκαμεν, Ἰάκωβος καὶ Σίμων, οὓς ἀνασταυρῶσαι προσέταξεν Ἀλέξανδρος.¹³¹

James and Simon were presumably the leaders of a sedition in Palestine.

3.4.3 *Ummidius Quadratus (50-60): Samaritans and Jews*

After the Samaritans attacked some Galilaean pilgrims (51 C.E.), there was fighting between the Jews and the procurator Cumanus who sided with the Samaritans.¹³² The governor, Ummidius Quadratus

... then crucified those of the Samaritans and of the Jews who, he had learned, had taken part in the rebellion and whom Cumanus had taken prisoner.

Σαμαρέων δὲ καὶ Ἰουδαίων οὓστινας νεωτερίσαντας ξμαθεν ἀνεσταύρωσεν οὓς Κουμανὸς ἔλαβεν αἰχμαλώτους.¹³³

In the parallel passage in the *Bellum*,

... subsequently he [Quadratus] proceeded to Caesarea, where he crucified all the prisoners taken by Cumanus. From there he went on to Lydda, where he gave another hearing to the Samaritans. He then sent for eighteen Jews, who, as he was informed, had taken part in the combat, and had them beheaded.

αὐτῷ δὲ παρελθὼν εἰς Καισάρειαν τοὺς ὑπὸ Κουμανοῦ ζωρηθέντας ἀνεσταύρωσεν πάντας. ἐκεῖθεν εἰς Λύδδα παραγενόμενος πάλιν διήκουσεν τῶν Σαμαρέων, καὶ μεταπεψάμενος ὀκτωκαίδεκα τῶν Ἰουδαίων, οὓς ἐπέπυστο μετεσχηκεῖν τῇ μάχῃ, πελέκει διεχειρίσατο.¹³⁴

The crucified individuals were brigands in the eyes of Quadratus.

3.4.4 *Jehohanan ben Hagqol (I C.E.)*

The remains of a crucified man's right calcaneum pierced by a nail were found in an ossuary in a Jewish tomb in Giv'at ha-Mivtar northeast of Jerusalem in 1968. He was crucified in Jerusalem, possibly during the disturbances

¹³¹ Josephus A.J. 20.102. Trans. of Josephus, *Jewish Antiquities* Book XX, vol. 10, LCL, ed. and trans. L. H. Feldman, Cambridge, MA/London 1965, 55-57.

¹³² Cf. Schürer, *History*, 1.264 on Quadratus and 459-460 on the incident and Smallwood, *The Jews*, 265-267 who shows that the incident should be dated to 51.

¹³³ Josephus A.J. 20.129. Trans. of Feldman, *Josephus*, 10.69.

¹³⁴ Josephus *Bell.* 2.241-242. Trans. of Thackeray, *Josephus*, 2.417-419. In Tacitus's version of the story, Quadratus sentences Jews guilty of killing Roman soldiers to death (*Ann.* 12.54.4, dated to 52).

in Palestine during the Claudian or Neronian period. It is likely that he was crucified for some form of political disturbance or brigandage, given the other evidence in Josephus and the NT about first century crucifixions in Palestine.¹³⁵ Augustine comments on the use of nails in Roman crucifixions:

For the crucified, hanging on the tree, nailed to the wood, were killed by a slow lingering death. To be crucified was not merely to be put to death; for the victim lived long on the cross, not because longer life was chosen, but because death itself was stretched out that the pain might not be too quickly ended.

*pendentes enim in ligno crucifixi, clavis ad lignum pedibus manibusque confixi, producta morte necabantur. non enim crucifigi hoc erat occidi; sed diu uiuebatur in cruce, non quia longior uita eligebatur, sed quia mors ipsa protendebatur, ne dolor citius finiretur.*¹³⁶

The placement of the man's heel on the side of the vertical post corresponds with that of the Puteoli graffito (cf. § 3.14 and see figures 5-7, 11-13). The nail is 11.5 cm long. His arms were probably attached to the cross by ropes (cf. chapt. 6 § 1.2). Remains of an olivewood plaque were found underneath the head of the nail.¹³⁷

3.5 Nero (13 Oct. 54 - 9 June, 68)

3.5.1 Felix and the Brigand Followers of Eleazar

After the accession of Nero in 54,¹³⁸ Felix, the procurator of Judaea, crucified many of the followers of Eleazar the brigand chief whom he had sent to Rome.

He [Felix] captured the chief brigand Eleazar who had carried out raids in the country for twenty years and many of those who were with him and sent them to Rome. The number was limitless of the brigands crucified by him and of the populace discovered to be in association with him whom he punished.

οὗτος τόν τε ἀρχιληστήν Ἐλεάζαρον ἔτεσιν εἴκοσι τὴν χώραν λησάμενον καὶ πολλοὺς τῶν σὺν αὐτῷ ζωγρήσας ἀνέπεμψεν εἰς Ῥώμην· τῶν δ' ἀνασταυρωθέντων ὑπ' αὐτοῦ ληστῶν καὶ τῶν ἐπὶ κοινωνίᾳ φωραθέντων δημοτῶν οὓς ἐκόλασεν, ἄπειρόν τι πλῆθος ἦν.¹³⁹

Josephus' ἀρχιληστήν (chief brigand) corresponds to the *auctor seditionis* of the *Digest* (§ 2.2 above).

¹³⁵ Y. Yadin, Epigraphy and Crucifixion, IEJ 23 [1973] 18-22, J. Zias and E. Sekeles, The Crucified Man from Giv'at ha-Mivtar: A Reappraisal, IEJ 35 (1985) 22-27 and Chapman, Ancient Jewish and Christian Perceptions, 86-88. See also chapt. 6 § 1.2.

¹³⁶ Aug. Tract. Io. 36.4, trans. of NPNF 7.209.

¹³⁷ Zias and Sekeles, The Crucified Man, 24.

¹³⁸ Josephus Bell. 2.252.

¹³⁹ Josephus Bell. 2.253. Chapman, Ancient Jewish and Christian Perceptions, 81 and Kuhn, Die Kreuzesstrafe, 711. Cf. A.J. 20.121 on Eleazar.

3.5.2 Christians in Rome

In Rome, in 64 after the destructive fire, Nero made the Christians scapegoats and prosecuted them for arson.

And as they perished, mockeries were added, so that, covered in the hides of wild beasts, they expired from mutilation by dogs or, fixed to crosses and made flammable, on the dwindling of daylight they were burned for use as nocturnal illumination.¹⁴⁰

et pereuntibus addita ludibria, ut ferarum tergis contacti laniatu canum interirent, aut crucibus adfixi ac¹⁴¹ flammandi, [atque] ubi defecisset dies in usu<m> nocturni luminis urerentur.

Although Barnes argues that the victims were affixed to stakes (with a cross piece) while standing on the ground (assuming the reading above), it is more likely that Nero's executioners suspended the victims in imitation of Christ's crucifixion.¹⁴² In addition, *stipes* is the term used by Latin authors for *crematio* (death by fire).¹⁴³ Crucifixion was a slow process, and the Christians would have remained alive long enough to die in the flames, if the textual solution above is correct. Immolation was a Roman punishment for arson in the *Twelve Tables* and in the *Digest*.

A person who burns down a building or a pile of corn set besides a dwellinghouse is directed to be bound, flogged, and put to death by fire, if, that is, his act was deliberate and conscious.

*Qui aedes acervumve frumenti iuxta domum positum conbusserit, vinctus verberatus igni necari iubetur, si modo sciens prudensque id commiserit.*¹⁴⁴

Crucifixion could be combined with other penalties. "Laureolus" in Titus's reign was suspended and killed by a bear (see below), and Blandina (the persecution in Lyons during Marcus Aurelius's rule) was hung on a stake that

¹⁴⁰ Tac. Ann. 15.44.4. Trans. of Woodman, Tacitus, 326. See recently Cook, Roman Attitudes, 40 (for the fifteenth century manuscripts' attempts to deal with the textual problem), 69-70 (seven modern emendations), and 73.

¹⁴¹ M (Mediceus – Laurentianus 68 II [copied between 1038 and 1058; cf. BiTeu, p. IV Heubner]) has *aut*. Woodman, Tacitus, 388 conjectures *ac*. Cf. Barnes, Hagiography, 334 who brackets [*aut flammandi atque*] with Heubner (BiTeu 369,17-20) and P. Corneli Taciti annalium libri XV-XVI, WSt.B 6, ed. F. Römer, Wien et al. 1976, 67,17-19. I thank Professor Kathleen M. Coleman for her help with reconstructing Tacitus's text.

¹⁴² Barnes, Hagiography, 337: "These followers of Christ were not suspended from a cross as in a real crucifixion: they were bound with ropes to a stake, with their arms tied to a cross-piece and extended in the posture of crucifixion; they were not suspended by their hands or wrists as they would have been in a real crucifixion, since it was never intended that they should die of exhaustion and asphyxiation as those crucified normally did in a death which was both painful and slow."

¹⁴³ Cf. chapt. 5 § 1.4.4.

¹⁴⁴ Lex xii tabularum 8.10 = Gaius 4 Ad legem duodecim tab. in Dig. 47.9.9, Digest 4.284. Cf. Latte, Todesstrafe, 1614 and Cook, Roman Attitudes, 72 (laws concerning arson).

appeared to be a cross and was consumed by wild animals.¹⁴⁵ Slaves in Puteoli were tortured with fire either before or during crucifixion (cf. the *lex Puteolana*).¹⁴⁶

3.5.3 Peter

It is possible that Peter was crucified during the Neronian persecution. John 21:18-19 may imply crucifixion, and later Christian tradition claimed it was true.¹⁴⁷ Barnes argues that ζώννυμι implies instead that Peter was clothed in the *tunica molesta* (combustible torture shirt) for his execution, appealing to his reconstruction of Tacitus's text (Ann. 15.44.4). Crucified individuals on the contrary were stripped (Mark 15:24 par) and so not "girded" as Peter was. Consequently, he concludes that "the risen Jesus is saying that whereas Peter used to clothe himself, another will clothe him when he is put to death."¹⁴⁸ Artemidorus does say, "for they are crucified naked and the crucified lose their flesh" (γυμνοὶ γὰρ σταυροῦνται καὶ τὰς σάρκας ἀπολλύουσιν οἱ σταυρωθέντες).¹⁴⁹ Dionysius of Halicarnassus, however, mentions youths

¹⁴⁵ Eus. H.E. 5.1.41: ἡ δὲ Βλανδῖνα ἐπὶ ξύλου κρεμασθεῖσα προύκειτο βορὰ τῶν εἰσβαλλομένων θηρίων, ἥ καὶ διὰ τοῦ βλέπεσθαι σταυροῦ σχήματι κρεμαμένη ... but Blandina was hung on a stake and offered as a prey to the wild beasts that were let in. She seemed to be hanging in the shape of a cross ... (trans. of Eusebius, Ecclesiastical History, vol. 1-2, LCL, ed. and trans. K. Lake and J. E. L. Oulton, Cambridge, MA/London 1926-1932, 1.427).

¹⁴⁶ See chapt. 5 § 1.4.4.

¹⁴⁷ Cf. Barnes, Hagiography, 5 with ref. to Tert. Praescr. 36.3, Origen on Gen. in Eus. H.E. 3.1.2, and Mart. Pet. 8.4-9.1 (O. Zwielerlein, Petrus in Rom. Die literarische Zeugnisse. Mit einer kritischen Edition der Martyrien des Petrus und Paulus auf neuer handschriftlicher Grundlage, UALG 96, Berlin 2009, 414,9-16 [crucified upside down]).

¹⁴⁸ Barnes, Hagiography, 7.

¹⁴⁹ Artemidorus Onir. 2.53. γυμνός ("naked") is consistent with wearing some kind of undergarment. Cf. BAGD s.v. In P. Enteux. 75 = P. Lille 2, 6,6-8 = P. Magd. 6,6-8 [Trismegistos # 3350] (Jan. 28, 222 B.C.E.) and P. Fay. 12,18-20 (104-103 B.C.E.) individuals rob a person of his *himation* who then describes himself as γυμνός. In Lollianus's romance, a "naked" man has a purple belt on his [loins]: γυμνὸς περιζώμα περὶ τῇ κοιλίᾳ] ἔχων φοινικοῦ[ν]. Cf. Die Phoinikika des Lollianos. Fragmente eines neuen griechischen Romans, ed. and comm. A. Henrichs, PTA 14, Bonn 1972, 92-3 (frag. B 1 recto, line 10). On the *tunica molesta*, cf. Sen. Ep. 14.5, Cook, Roman Attitudes, 363 s.v. and chapt. 5 § 1.4.4. Barnes, Hagiography, 7 refers to John 21:7 τὸν ἐπενδύτην διεζώσατο, ἦν γὰρ γυμνός, where he approves the KJV's "He girt his fisher's coat unto him (for he was naked)." Cf. LSJ, Supplement (1968), s.v. I. "to surround with a belt or girdle, gird." II. "fasten or secure one's dress with a belt or girdle." In Gen 3:7 LXX, Adam and Eve find themselves naked (γυμνοί) and prepare loincloths (περιζώματα) for themselves. Eusebius H.E. 8. 9.1 describes the horrendous death of certain "completely naked women who had nothing covering their bodies" γυμνοὶς τε παντελῶς καὶ μηδ' ἐπικεκαλυμμένους τοῖς σώμασιν. Cp. Cassius Dio 63.13.2, a text describing Nero's rape, while dressed in an animal's skin, of young boys and girls, who were attached to stakes nude (presumably totally) μερῶς καὶ

who while “naked are girded around their private parts with the skins of newly sacrificed victims (γυμνοὺς ὑπεζωσμένους τὴν αἰδῶ ταῖς δοραῖς τῶν νεοθύτων).¹⁵⁰ There are some archaeological remains from the past that are important in determining whether all crucified individuals were *completely* nude. A marble relief from Smyrna now in the Ashmolean museum shows three rows of condemned slaves. On the top row they wear loincloths (*subligaculum*, διάζωμα, περίζωμα), and they are being led in metal collars attached by ropes. On the bottom they are being attacked by wild beasts.¹⁵¹ In the Palatine graffito the crucified man/ass wears some kind of garment.¹⁵²

3.5.4 Diophon

Lucilius, a Greek epigrammatist during Nero’s reign, described in this elegiac a crucified criminal, who also presumably died during Nero’s imperium:

Jealous Diophon, seeing another nearby crucified on a higher cross than his, faded away.

Μακροτέρῳ σταυρῷ σταυρούμενον ἄλλον ἑαυτοῦ
ὁ φθονερός Διοφῶν ἐγγὺς ἰδὼν ἐτάκη.¹⁵³

Since Lucilius was a satirist Diophon is likely not a purely fictional character. The emphasis on Diophon’s view and his decline indicates that this is not an impalement (which would have resulted in immediate death). Another

κόρας σταυροῖς γυμνὰς προσδέων θηρίου τέ τινος δορὰν ἀνελάμβανε καὶ προσπίπτων σφίσειν ἡσέλγαινεν ὥσπερ τι ἐσθίων. The word γυμνός in itself is ambiguous and needs further semantic clarification in a text (e.g., παντελῶς or περιζώματα).

¹⁵⁰ Dionysius Halicarnassus 1.80.1. Cp. Stockbauer, *Kunstgeschichte*, 43-4.

¹⁵¹ Cf. the photograph in D. G. Kyle, *Spectacles of Death in Ancient Rome*, London 1998, 88 and in K. Bradley, *On Captives under the Principate*, *Phoenix* 58 (2004) 298-318, esp. 300 (Plate 6) and 306 (on chains). Plate 5 shows two prisoners with collars around their necks connected by chains. Cp. the discussion in G. Lafaye, *Art. La venatio dans les jeux de l’amphithéâtre*, *DAGR* V (1892) 700-711, esp. 708. On the same page Lafaye includes a drawing of a clay bas relief, now in the Louvre, which depicts a completely nude woman, hands tied behind her back, sitting on a bull, being attacked by a panther (he compares this to the Dirka in 1 Clem. 6.2). On a second century lamp from Rome a man is depicted, completely nude, standing up with his hands tied behind his back around a stake. The stake in turn is on top of a platform (*pulpitum*, *catasta*). See figure 8. Cf. E. Saglio, *Crux*, *DAGR* I/2 (1887) 1573-1575, esp. 1574 and on similar images (clothed or nude) on *terra sigillata* from Gaul and on lamps of II C.E. and African Red Slipware ceramics (350-430 C.E.), cf. A. van den Hoek and J. J. Herrmann, Jr., *Thecla Beast Fighter: A Female Emblem of Deliverance in Early Christian Popular Art*, in: *idem*, *Pottery, Pavements, and Paradise. Iconographic and Textual Studies on Late Antiquity*, *SVigChr* 122, Leiden 2013, 65-106, esp. 94-101. I thank Professor Felicity Harley McGowan for pointing out the Ashmolean relief and for her comments on nudity in the ancient world.

¹⁵² See figure 10, H. Solin and M. Itkonen-Kaila, *Graffiti del Palatino. I. Paedagogium*, *AIRF* 3, ed. by V. Väänänen, Helsinki 1966, 209-212, and Cook, *Envisioning Crucifixion*, 283-284.

¹⁵³ *Anthologia Graeca* 11.192. Cf. A. D. E. Cameron, *Lucilius*, *OCD*³ 888.

epigram of the same poet may describe the fate of a thief who stole three apples from Nero's orchard.¹⁵⁴

3.5.5 *Florus and the Jerusalemites*

In Florus's procuratorship (64-66),¹⁵⁵ in 66, after he had ordered the temple treasury to be pillaged, there were disturbances in Jerusalem in which the procurator was insulted by individuals in the crowd. Soldiers began killing the citizens.

There ensued a stampede through the narrow alleys, massacre of all who were caught, every variety of pillage; many of the peaceable citizens were arrested and brought before Florus, who had them first scourged and then crucified. The total number of that day's victims, including women and children, for even infancy received no quarter, amounted to about six hundred and thirty. The calamity was aggravated by the unprecedented character of the Romans' cruelty. For Florus ventured that day to do what none had ever done before, namely, to scourge before his tribunal and nail to the cross men of equestrian rank, men who, if Jews by birth, were at least invested with that Roman dignity.

φυγή δ' ἦν ἐκ τῶν στενωπῶν καὶ φόνος τῶν καταλαμβανομένων, τρόπος τε ἄρπαγῆς οὐδείς παρελείπετο, καὶ πολλοὺς τῶν μετρίων συλλαβόντες ἐπὶ τὸν Φλωρον ἀνήγον· οὓς μάστιξιν προαικισάμενος ἀνεσταύρωσεν. ὁ δὲ σύμπας τῶν ἐκείνης ἀπολομένων τῆς ἡμέρας ἀριθμὸς σὺν γυναιξίν καὶ τέκνοις, οὐδὲ γὰρ νηπίων ἀπέσχοντο, περὶ τριάκοντα¹⁵⁶ καὶ ἑξακοσίους συνήχθη. βαρύτεραν τε ἐποίει τὴν συμφορὰν τὸ καινὸν τῆς Ῥωμαίων ὁμότητος· ὃ γὰρ μηδεὶς πρότερον τότε Φλωρος ἐτόλμησεν, ἄνδρας ἱππικοῦ τάγματος μαστιγῶσαι τε πρὸ τοῦ βήματος καὶ σταυρῷ προσηλωθῆναι, ὃν εἰ καὶ τὸ γένος Ἰουδαίων ἀλλὰ γοῦν τὸ ἀξιώμα Ῥωμαϊκὸν ἦν.¹⁵⁷

As "rebels," however, they apparently lost their Roman legal protections. They were, like all crucified individuals, expelled from the community.¹⁵⁸ Such events helped spark the Jewish rebellion. Presumably the women and children were crucified also. The nails show that Josephus means crucifixion

¹⁵⁴ In Anth. Graec. 11.184 Meniscus who stole three golden apples was burned alive. Cp. Cook, *Roman Attitudes*, 81.

¹⁵⁵ Schürer, *The History of the Jews*, 1.470.

¹⁵⁶ Cf. Josephus Bell. 2.307 (Opera VI, 212 apparatus criticus Niese: MSS PAML and Lat read *τριάκοντα* [30] and MSS VRC read *τρισχίλους* [3000]) and Chapman, *Ancient Jewish and Christian Perceptions*, 82. The lower number is to be preferred as the *lectio difficilior*. Cp. Flavius Josephus. Translation and Commentary. Vol. 1b. Judean War 2, trans. and comm. S. Mason and H. Chapman, Brill 2008, 246 (mediaeval copyists tended to inflate figures).

¹⁵⁷ Josephus Bell. 2.306-308, trans. of Thackeray, Josephus, 2.443.

¹⁵⁸ Cf. Aubert, *Double Standard*, 129: "crucifixion sanctioned a few categories of crimes, the nature of which excluded their authors from the civic and international community, thus disqualifying them altogether from whatever form of legal protection was attached to citizenship and freedom."

and not impalement in this text and in his other narratives that use suspension language (cf. chapt. 3 § 2.4).

3.6 Galba (8 June 68-15 Jan. 69): Crucifixion of a Guardian

Galba, who had studied the law, when governor of Hispania Tarraconensis (60-68)¹⁵⁹ condemned to crucifixion a guardian who had poisoned his ward for the sake of the inheritance:

For eight years he governed the province in a variable and inconsistent manner. At first he was vigorous and energetic and even over severe in punishing offences; for he cut off the hands of a money-lender who carried on his business dishonestly and nailed them to his counter; [he] crucified a man [guardian] for poisoning his ward, whose property he was to inherit in case of his death; and when the man invoked the law and declared that he was a Roman citizen, Galba, pretending to lighten his punishment by some consolation and honour, commanded that his cross be changed and that it be set up higher than others and whitewashed.

*Per octo annos uarie et inaequaliter prouinciam rexit, primo acer et uehemens et in coercendis quidem delictis uel immodicus. nam et nummulario non ex fide uersanti pecunias manus amputauit mensaeque eius adfixit, tutorem, quod pupillum, cui substitutus heres erat, ueneno necasset, cruce adfecit; implorantique leges et ciuem Romanum se testificant, quasi solacio et honore aliquo poenam leuaturus, mutari multoque praeter ceteras altiore et dealbatam statui crucem iussit.*¹⁶⁰

Galba may have considered the crucifixion legal.¹⁶¹ The verbs for nailing (*adfixit* and *adfecit*) show that the tutor was crucified and not impaled.

3.7 Vitellius (2. Jan.-20 Dec. 69): Geta's Crucifixion

A slave who claimed to be Scribonianus Camerinus (who had been murdered by a slave of Nero) gathered rabble around himself. Vitellius questioned him about his identity.

No faith was put in his answers; and after he had been recognized by his master as a runaway slave, Geta by name, he suffered the punishment usually inflicted on slaves.

*postquam nulla dictis fides et a domino noscebatur condicione fugitivus nomine Geta, sumptum de eo supplicium in servilem modum.*¹⁶²

There is little doubt the reference is to crucifixion.

¹⁵⁹ Kienast, Römische Kaisertabelle, 102-103.

¹⁶⁰ Suet. Gal. 9.1. Trans. modified of Rolfe, Suetonius, 2.195 (Rolfe has "ordered that a cross much higher than the rest and painted white be set up, and the man transferred to it").

¹⁶¹ Cf. the extended discussion in chapt. 5 § 1.3.

¹⁶² Tac. Hist. 2.72.2. Trans. of Tacitus, Histories. Books I-III, vol. 2, LCL, ed. and trans. C. H. Moore, Cambridge, MA/London 1925, 277. Cf. Hengel, Crucifixion, 51-63 on the crucifixion of slaves – the *servile supplicium* and chapt. 5 § 1.1.

3.8 Vespasian (1 July 69-23 June 79)

3.8.1 An Escaped Slave

Vitellius had freed a slave and made him an equestrian. The escaped slave of Vergilius Capito had betrayed the city of Tarracina to Vitellius's forces.¹⁶³ He was crucified for his efforts, and the Tarracines found solace in his execution.

The Tarracines, however, found comfort in the fact that the slave of Verginius Capito, who had betrayed them, was crucified [fastened to a *patibulum*] wearing the very rings that he had received from Vitellius.

*solacio fuit servus Vergilii Capitonis, quem proditorem Tarracinensium diximus, patibulo adfixus in idem anulis quos acceptos a Vitellio gestabat.*¹⁶⁴

As a freedman he was subject to crucifixion, although for an equestrian the penalty was likely unusual. The verb (*adfixum*) and mention of a *patibulum* show that crucifixion is the intention of the narrative.

3.8.2 Asiaticus

Vitellius had also given his freedman Asiaticus the golden ring of the equestrian order.¹⁶⁵ He was crucified: "Asiaticus (who was a freedman) expiated his evil power by the servile punishment" (*Asiaticus [is enim libertus] malam potentiam servili supplicio expiavit*).¹⁶⁶ Either Vespasian did not care that the individuals were equestrians, or he regarded the actions of the usurper Vitellius as of no legal validity.¹⁶⁷

3.8.3 A Captive from Jotapata

During the siege of Jotapata (67 C.E.), Vespasian did not trust a deserter who had reported on the bad state of affairs in the town:

For on a former occasion a man of Jotapata who had been taken prisoner had held out under every variety of torture, and without betraying to the enemy a word about the state of the town, even under the ordeal of fire, was finally crucified, meeting death with a smile.

¹⁶³ Tac. Hist. 3.77.1. Cp. Tac. Hist. 1.13.1 *anulis ... equestri* (the ring of an equestrian).

¹⁶⁴ Tac. Hist. 4.3.2, trans. of Tacitus, vol. 3, LCL, ed. and trans. C. H. Moore, Cambridge, MA/London 1931, 7.

¹⁶⁵ Tac. Hist. 2.57.2 (*malis artibus ambitiosum*, popular due to his evil arts, trans. Moore, Tacitus 2.252). Cp. 2.95.2, 4 on his baneful influence. Tacitus compares him to two rapacious freedmen of Nero: Polyclitus (1.37.5) and Patrobius (1.49.1).

¹⁶⁶ Tac. Hist. 4.11.3. Cf. chapt. 5 § 1.1.

¹⁶⁷ On the latter point, cp. Aubert, Double Standard, 116.

ἐπειδὴ καὶ πρότερον ληφθεῖς τις τῶν ἀπὸ τῆς Ἰωταπάτης πρὸς πᾶσαν αἰκίαν βασάνων ἀντέσχευεν καὶ μηδὲν διὰ πυρὸς ἐξερευνῶσι τοῖς πολέμοις περὶ τῶν ἔνδον εἰπὼν ἀνεσταυρώθη τοῦ θανάτου καταμειδιῶν.¹⁶⁸

The captive was a *peregrinus*, clearly subject to crucifixion, and his smile during crucifixion may indicate its length.

3.8.4 A Captive Jewish Soldier

In an attempt to burn the Roman siege works outside Jerusalem (70 C.E.), a Jewish soldier was taken by Titus's forces:¹⁶⁹

One incident in this engagement was the capture of Jewish prisoner, whom Titus ordered to crucifixion before the walls, in the hope that the spectacle might lead the rest to surrender in dismay.

συνέβη δ' ἐν ταύτῃ τῇ μάχῃ καὶ ζωργηθῆναι τινα τῶν Ἰουδαίων, ὃν ὁ Τίτος ἀνασταυρῶσαι πρὸ τοῦ τείχους ἐκέλευσεν, εἴ τι πρὸς τὴν ὄψιν ἐνδοῖεν οἱ λοιποὶ καταπλαγέντες.

The horror of crucifixion probably was not lost on those in Jerusalem.

3.8.5 Deserters from the Jerusalem Siege

Titus, during the siege, caught deserters desperate for food:

When caught, they were driven to resist, and after a conflict it seemed too late to sue for mercy. After they were accordingly scourged and subjected to torture of every description before death,¹⁷⁰ they were crucified opposite the walls. Titus indeed commiserated their fate, five hundred or sometimes more being captured daily; on the other hand, he recognized the risk of dismissing prisoners of war, and that the custody of such numbers would amount to the imprisonment of their custodians; but his main reason for not stopping the crucifixions was the hope that the spectacle might perhaps induce the Jews to surrender, for fear that continued resistance would involve them in a similar fate. The soldiers out of rage and hatred amused themselves by nailing their prisoners in different postures; and so great was their number, that space could not be found for the crosses nor crosses for the bodies.

λαμβάνόμενοι δὲ κατ' ἀνάγκην ἡμύνοντο, καὶ μετὰ μάχην ἰκετεύειν ἄωρον ἐδόκει. μαστιγούμενοι δὲ καὶ προβασανιζόμενοι τοῦ θανάτου πᾶσαν αἰκίαν ἀνεσταυροῦντο τοῦ τείχους ἀντικρὺ. Τίτῳ μὲν οὖν οἰκτρὸν τὸ πάθος κατεφαίνετο πεντακοσίων ἐκάστης ἡμέρας ἔστι δὲ ὅτε καὶ πλείονων ἀλίσκομένων, οὕτε δὲ τοὺς βίᾳ ληφθέντας ἀφείναι ἀσφαλές καὶ φυλάττειν τοσοῦτους φρουρὰν τῶν φυλαξόντων ἑώρα· τό γε μὴν πλέον οὐκ ἐκώλυεν τάχ'

¹⁶⁸ Josephus Bell. 3.321. Trans. of Thackeray, Josephus, 2.667. Jotapata fell on 1 Panemus (June/July) in 67 (Bell. 3.339). Cf. Schürer, *The History of the Jewish People*, 1.493 on the chronology of the siege.

¹⁶⁹ Josephus Bell. 5.289. Trans. of Thackeray, Josephus, 3.291. Smallwood, *The Jews*, 316: by April-May, 70 Jerusalem was under siege.

¹⁷⁰ Cp. Ulpian *De offic. procon.* in Dig. 48.19.8.3 *quamvis plerique dum torquentur deficere solent* (although many while being tortured often die).

ὃν ἐνδοῦναι πρὸς τὴν ὄψιν ἐλπίσας αὐτούς, εἰ μὴ παραδοῖεν, ὅμοια πεισομένους. προσήλουν δὲ οἱ στρατιῶται δι' ὀργὴν καὶ μῖσος τοὺς ἀλόντας ἄλλον ἄλλῳ σχήματι πρὸς χλεύην, καὶ διὰ τὸ πλῆθος χώρα τε ἐνέλειπε τοῖς σταυροῖς καὶ σταυροὶ τοῖς σώμασιν.¹⁷¹

Titus's intention to execute the prisoners implies that these were not post-mortem suspensions. Josephus mentions no other method of execution, and the assumption that one existed is gratuitous (e.g., the soldiers amuse themselves by crucifying the living captives in different postures). The emphasis on nails demonstrates that crucifixion was used and not impalement. The next text also indicates that Josephus was thinking of pre-mortem crucifixion.

3.8.6 Crucified Prisoners Outside of Tekoa

After Jerusalem was captured in 70, Titus sent Josephus to Tekoa:

Once more, when I was sent by Titus Caesar with Cerealius and a thousand horse to a village called Tekoa, to prospect whether it was a suitable place for an entrenched camp, and on my return saw many prisoners who had been crucified, and recognized three of my acquaintances among them, I was cut to the heart and came and told Titus with tears what I had seen. He gave orders immediately that they should be taken down and receive the most careful treatment. Two of them died in the physicians' hands; the third survived.

πεμφθεὶς δ' ὑπὸ Τίτῳ Καίσαρος σὺν Κερεαλίῳ καὶ χιλίοις ἱππεῦσιν εἰς κώμην τινὰ Θεκῶαν λεγομένην προκατανοήσων, εἰ τόπος ἐπιτήδειός ἐστιν χάρακα δέξασθαι, ὥς ἐκεῖθεν ὑποστρέφων εἶδον πολλοὺς αἰχμαλώτους ἀνεσταυρωμένους καὶ τρεῖς ἐγνώρισα συνήθεις μοι γενομένους, ἥλγησά τε τὴν ψυχὴν καὶ μετὰ δακρύων προσελθὼν Τίτῳ εἶπον. ὁ δ' ἐὺθὺς ἐκέλευσεν καθαιρεθέντας αὐτοὺς θεραπείας ἐπιμελεστάτης τυχεῖν. καὶ οἱ μὲν δύο τελευτῶσιν θεραπευόμενοι, ὁ δὲ τρίτος ἔζησεν.¹⁷²

The narrative shows that Josephus uses the verb ἀνασταυρόω for crucifixion and not impalement. In the legend of the crucifixion of Timothy and Maura, they lasted nine days on their crosses before they died.¹⁷³

¹⁷¹ Josephus Bell. 5.449-451. Trans. of Thackeray, Josephus, 3.341. These events occurred between 7 and 29 Artemisius (April/May, 70). Cf. Bell. 5.302, 466 and Schürer, The History of the Jewish People, 1.504.

¹⁷² Josephus Vita 420-421. Trans. of Josephus, I, The Life. Against Apion, LCL, ed. and trans. H. St. J. Thackeray, Cambridge, MA/London 1926, 155. "Stretches of major roads outside Jerusalem were lined with crosses," like the Appian way after Spartacus's revolt, according to the comment in Flavius Josephus. Translation and Commentary. Vol. 9. Life of Josephus, trans. and comm. S. Mason, Brill 2001, 167.

¹⁷³ Synaxarium Eccl. Const. Maius 1.3 (Propylaeum ad Acta Sanctorum Novembris, ed. H. Delehaye, Brussels 1902, 651,20-1): Σταυροῦνται οὖν μετὰ ταῦτα ἀμφοτέρω· καὶ ἐπιμείναντες ἡμέρας ἐννέα τῇ ἀναρτήσει (After that they were both crucified. And they endured nine days of suspension). See BHG § 1848z-1849. Arrianus is said to be governor of the Thebaid in the synaxarium. He was *praeses* until 307. Cf. Barnes, Hagiography, 141 (with his ref. to the genuine account of a Christian's trial [P.Duke inv. 438]).

3.8.7 Eleazar

The legate of Palestine, Lucilius Bassus, in the siege of Machaerus during 72, captured an impetuous youth named Eleazar:

For he ordered a cross to be erected, as though intending to have Eleazar instantly suspended; at which sight those in the fortress were seized with deeper dismay and with piercing shrieks exclaimed that the tragedy was intolerable. At this juncture, moreover, Eleazar besought them not to leave him to undergo the most pitiable of deaths, but to consult their own safety by yielding to the might and fortune of the Romans, now that all others had been subdued.

ὁ μὲν γὰρ προσέταξε καταπηγνύναι σταυρὸν ὡς αὐτίκα κρεμῶν τὸν Ἑλεάζαρον, τοῖς δὲ ἀπὸ τοῦ φρουρίου τοῦτο θεασαμένοις ὀδύνη τε πλείων προσέπεσε, καὶ διωλύγιον ἀνῶμωζον οὐκ ἀνασχετὸν εἶναι τὸ πάθος βοῶντες. ἐνταῦθα δὴ τοῖσιν Ἑλεάζαρος ἰκέτευεν αὐτοὺς μήτε αὐτὸν περιδεῖν ὑπομείναντα θανάτων τὸν οἴκτιστον καὶ σφίσις αὐτοῖς τὴν σωτηρίαν παρασχεῖν τῇ Ῥωμαίων ἐξάντας ἰσχύι καὶ τύχῃ μετὰ πάντας ἥδη κεχειρωμένους.¹⁷⁴

All of these individuals died as rebels or brigands. Eleazar came close to dying for the same reason, and Josephus regards crucifixion as the most miserable way to die.

3.9 Before the Destruction of Pompeii in 24 Aug. 79 C.E.

Probably toward mid first century, a *scriptor* named Cuniclus painted the following announcement of a gladiatorial spectacle at Cumae between two tombs outside the Porta Nuceria in Pompeii (see figure 15):

At Cumae, 20 gladiatorial pairs and their substitutes will fight on the 1 October, 5 October, 6 October, and 7 October. There will be *cruciarii* (individuals to be crucified), a fight with wild beasts and the *velarium* (awning) will be used [over the arena]

Cumis gl(adiatorum) p(aria) XX
[et eorum] suppos[iticii pu]gn(abunt) K(alendis) Oct(obres) III pr(idie) N[onas Octo-
bres]
*cruciarii ven(atio) et vela er(unt)*¹⁷⁵

Between the two numbers in the first line appears the *scriptor*'s greeting to his friend Lucceius: *Cunicl(us) / Lucceio / sal(utem)*. The deaths of the crucified individuals in the amphitheatre of Cumae were perhaps aggravated by

¹⁷⁴ Josephus Bell. 7.202-203. Trans. of Thackeray, Josephus, 3.563. Cf. Schürer, The History of the Jewish People, 1.511 and on the chronology I. A. Richmond, The Roman Siege-Works of Masada, Israel, JRS 52 (1962) 142-155, esp. 144 with ref. to Bell. 7.219. Cp. Kienast, Römische Kaisertabelle, 108-109.

¹⁷⁵ CIL IV, 9983a = P. Sabbatini Tumolesi, Gladiatorium paria: Annunci di spettacoli gladiatorii a Pompei, Rome 1980 (GladPar) 79, Plate V,2 and XIV,1 (with map I,2), 107-109 (from whose edition I take the text above and the dating of the painting).

wild beasts or burning.¹⁷⁶ The *cruciarrii* (individuals to be crucified) may have been condemned slaves, but more probably were *noxii* (condemned criminals) who often were executed in Roman spectacles.¹⁷⁷

3.10 Titus (24 June 79 - 13 Sept. 81): “Laureolus”

During the dedication of Titus’s amphitheatre in 80, a criminal was crucified who played the part of the robber, Laureolus – a subject of a popular mime.¹⁷⁸ He was actually killed by a bear.

Just as Prometheus, chained on a Scythian crag, fed the tireless bird on his prolific breast, so Laureolus, hanging on no false cross, gave up his defenceless entrails to a Scottish bear. His mangled limbs were still alive, though the parts were dripping with blood, and in his whole body there actually was no body. Then <what heinous crime merited such severe> punishment? Either in his guilt he had stabbed his master in the throat with a sword, or in his madness robbed a temple of its hoard of gold, or stealthily set you alight with brutal torches, Rome. This miscreant had surpassed crimes recounted in tales of old; in his case, what had been legend really was punishment.

*Qualiter in Scythica religatus rupe Prometheus
adsiduam nimio pectore pavit avem,
nuda Caledonio sic viscera praebuit urso
non falsa pendens in cruce Laureolus.
vivebant laceri membris stillantibus artus
inque omni nusquam corpore corpus erat.
denique supplicium <meruit quo crimine tantum?>
vel domini iugulum foderat ense nocens,
templa vel arcano demens spoliaverat auro,
subdiderat saevas vel tibi, Roma, faces.
vicerat antiquae sceleratus crimina famae,
in quo, quae fuerat fabula, poena fuit.*¹⁷⁹

¹⁷⁶ On this text cf. Cook, Crucifixion as Spectacle in Roman Campania, 69-82.

¹⁷⁷ Cp. the usage in Sen. Con. 7.6.2, 7.6.6 (chapt. 1 § 1.14) for slaves and cf. Cook, Crucifixion as Spectacle, 76-82 on *noxii* and the *cruciarrii*.

¹⁷⁸ Cf. M. Valerii Martialis Liber Spectaculorum, ed. with intro., trans., and commentary by K. M. Coleman, Oxford 2006, 82-96 and idem, Fatal Charades: Roman Executions Staged as Mythological Enactments, JRS 80 (1990) 44-73, esp. 62, Kuhn, Die Kreuzesstrafe, 694-696.

¹⁷⁹ Mart. Sp. 9(7).1-12. Trans. of Coleman, Liber Spectaculorum, 82. Josephus, A.J. 19.94 (the mime and artificial blood for the crucifixion); cf. Suet. Cal. 57.4 (no mention of the mime’s crucifixion) on 24 Jan. 41 (“a few hours before Gaius was assassinated” cf. Coleman, *ibid.*, 83); Tert. Val. 14.4 (the mime). A Catullus wrote a mime called *Laureolus* (Scaenicae Romanorum poesis fragmenta, Vol. 2, Comitorum fragmenta, BiTeu, ed. O. Ribbeck, Leipzig 1898, 370-371). Juv. 8.187-188: The nimble Lentulus acted famously the part of Laureolus: deserving, in my judgment, to be really and truly crucified (*Laureolum uelox etiam bene Lentulus egit, iudice me dignus uera cruce*). Trans. of Juvenal and Persius, LCL, ed. and trans. G. G. Ramsay, Cambridge, MA/London 1918, 173. See Hengel, Crucifixion, 35. Cp. the tradition of a mime named Ardalion who was hung on a cross during “Maxi-

In this case (probably rare), crucifixion was combined with the intended death by wild animals.¹⁸⁰ Coleman notes that the punishment for *sacrilegium* (sacrilege) in Ulpian was usually *damnatio ad bestias* (condemnation to death by wild animals). The jurist, however, also includes crucifixion as a possible penalty for that crime.¹⁸¹ Ulpian also specifies death by wild animals for individuals of lower rank in Rome who intentionally commit arson and capital punishment or exile for those of higher rank.¹⁸² The fate of the Christians in Nero's Rome also indicates that crucifixion (and burning) was current as a punishment for arson. An African red slip ware *lagynos* (wine flask) depicts a man suspended on a stake who is being attacked by a bear (cf. figure 9) and is similar to the crucifixion in Martial.¹⁸³ The list of crimes is important, because it illustrates reasons for crucifying an individual, and Martial seemingly does not claim that only slaves could be crucified.

3.11 Domitian (14 Sept. 81-18 Sept. 96)

3.11.1 Slaves/Scribes

Suetonius mentions various crucifixions by Domitian:

He put to death ... also Hermogenes of Tarsus because of some allusions in his *History*, besides crucifying [fastening or nailing to a cross] even the slaves who had written it out. A householder who said that a Thracian gladiator was a match for the *murmillio*, but not for the giver of the games, he caused to be dragged from his seat and thrown into the arena to dogs, with this placard: "A favourer of the Thracians who spoke impiously."

... occidit; item Hermogenem Tarsensem propter quasdam in historia figuras, libris etiam, qui eam descriperant, cruci fixis. patrem familias, quod Thraecem *murmilloni* parem, munerario imparem dixerat, detractum spectaculis in harenam canibus obiecit cum hoc titulo: impie locutus *parmularius*.¹⁸⁴

Figurae (allusions, innuendoes) refers to "indirect attacks."¹⁸⁵ The emphasis on fastening or nailing (*cruci fixis*) the slaves to a cross indicates crucifixion and not impalement.

mian's" imperium (but was not crucified; see § 3.23). For commentary on the mime, cf. R. Webb, *Demons and Dancers. Performance in Late Antiquity*, Cambridge, MA 2008, 121 and Welborn, Paul, the Fool of Christ, 56, 74, 79, 100 etc.

¹⁸⁰ Zestermann, *Die Kreuzigung*, 355.

¹⁸¹ Coleman, *Liber Spectaculorum*, 94 with ref. to Ulpian 7 *De officio procons.* in Dig. 48.13.7. Cf. the text in chapt. 5 § 1.5.

¹⁸² Ulpian 8 *De officio procon.* in *Collatio* 12.5.1 (371-2 Kübler) *Nam qui data opera in ciuitate incendium fecerunt, si humillimo loco sunt, bestiis subici solent, si in aliquo gradu et Romae id fecerunt, capite puniuntur aut certe deportationis poena* [suppl. Blume] *adficiendi sunt, qui haec committunt.*

¹⁸³ Cook, *Crucifixion as Spectacle* 77-8, and Coleman, *Liber Spectaculorum*, 89.

¹⁸⁴ Suet. Dom. 10.1. Trans. of Rolfe, *Suetonius*, 2.359.

¹⁸⁵ B. W. Jones, *The Emperor Domitian*, London 1992, 124.

3.11.2 *An auctor summarum (steward)*

Suetonius gives another example of his cruelty:

His savage cruelty was not only excessive, but also cunning and sudden. He invited one of his stewards to his bed-chamber the day before crucifying him [fastening/nailing to a cross], made him sit beside him on his couch, and dismissed him in a secure and gay frame of mind, even deigning to send him a share of his dinner.

*Erat autem non solum magnae, sed etiam callidae inopinataeque saevitiae. a[u]ctorem summarum pridie quam cruci figeret in cubiculum uocavit, assidere in toro iuxta coegit, securum hilaremque dimisit, partibus etiam de cena dignatus est.*¹⁸⁶

The *auctor summarum* was a slave, although the title is unattested in inscriptions.¹⁸⁷ The use of the verb for “nail” or “fasten” (*figere*) shows that this was a crucifixion (and not impalement).

3.12 *Egypt, first century C.E.*

A papyrus from Oxyrhynchus, which may be a narrative of a trial (or part of the *Acta Alexandrinorum*) includes four accused individuals, one of whom is a woman, in Alexandria. C. H. Roberts argues that the documentary nature of the text argues against it being part of the acts of the pagan martyrs. The background may be the riots in Alexandria between Jews and Greeks.¹⁸⁸ The text begins with a reference to the judge’s intention to behead Apollodotus (l. 6). Then it mentions scourging (l. 10-11)

And he ordered him to be scourged with whips. Peteirios and ... were on the point of being scourged.

καὶ ἐκέλευσεν αὐτὸν φλαγγέλλας μαστιγῶ-
θῆναι. ἔμελλον μαστιγοῦσθαι <ι> ὁ Πετεΐριος

Crucifixion is probably the punishment for a political disturbance:

... and will suffer crucifixion, and he said would (bring) the other weavers into a state of disaffection (l. 25-6).

αν κείνη . η . . ἑλληνηκαὶ καὶ σταυροποιῶν [π]είσεται καὶ
πρὸς καχεξίαν ε[.] . οπ . . . ἄλλους γερδίοις ἔφη τοὺς μὲν¹⁸⁹

The magistrate apparently regarded the disturbance as a form of sedition.

¹⁸⁶ Suet. Dom. 11.1. Trans. of Rolfe, Suetonius, 2.343.

¹⁸⁷ Cf. J. Carlsen, Vilici and Roman Estate Managers until AD 284, ARID 24, Rome 1995, 127 who compares them to *vilici summarum*, *dispensatores summarum* (“imperial slaves in the financial administration”) and *servi publici*.

¹⁸⁸ POxy 2339, p. 117. The editor, C. H. Roberts, refers to Josephus Bell. 2.489.

¹⁸⁹ POxy 2339. Trans. on p. 118. Read ἔφη on l. 26. Cf. R. MacMullen, A Note on Roman Strikes, CJ 58 (1963) 269-271, esp. 271 (MacMullen believes the papyrus is from the Julio-Claudian era). P. IFAO III, 34 may contain a reference to a threat of crucifixion by Gaius Vitrusius Pollio, prefect of Egypt from 38-41 C.E. (my paper is in preparation).

3.13 Trajan: Bishop Symeon son of Clopas

Eusebius transmits a tradition of Hegesippus concerning the trial before the governor Atticus and subsequent crucifixion of Bishop Symeon son of Clopas in Jerusalem.

Some of these, (that is to say the heretics), accused Simon the son of Clopas of being descended from David and a Christian ...

ἀπὸ τούτων δηλαδὴ τῶν αἰρετικῶν κατηγοροῦσιν τινες Σίμωνος τοῦ Κλωπᾶ ὡς ὄντος ἀπὸ Δαυὶδ καὶ Χριστιανοῦ ...¹⁹⁰

Atticus found the charges persuasive.

He was tortured for many days and gave his witness, so that all, even the consular, were extremely surprised how, at the age of one hundred and twenty, he endured, and he was commanded to be crucified.

καὶ ἐπὶ πολλαῖς ἡμέραις αἰκιζόμενος ἐμαρτύρησεν, ὥς πάντας ὑπερθαυμάζειν καὶ τὸν ὑπατικὸν πῶς ῥα' τυγχάνων ἐτῶν ὑπέμεινεν, καὶ ἐκελεύσθη σταυρωθῆναι.¹⁹¹

Barnes argues, on the basis of the accusation, that Symeon was convicted “as the potential leader or figurehead of a Jewish rebellion” and not for being a Christian.¹⁹² The case becomes even more plausible when placed in the context of the other known crucifixions in the first century in Palestine, which were all for political disturbance (i.e., sedition or something similar).¹⁹³

3.14 Trajanic-Hadrianic Period: Alkimilla

In 1959 a group of eight *tabernae* was excavated in Puteoli, and on the west wall of *taberna* 5 (a guesthouse because of the nature of the inscriptions inside that mention various names and cities), a graffito of a crucified individual was discovered among numerous other graffiti (images and texts).¹⁹⁴ “The cross is 40 cm high, the *patibulum* is 26 cm long, and the height of the condemned individual is 35 cm.”¹⁹⁵ Immediately above the left shoulder of the crucified person the same artist (or another) inscribed Ἀλκίμιλα (Alkimilla). Clearly the person who wrote the woman’s name intended the onlookers to view the victim of the crucifixion as a woman. Probably he referred to the

¹⁹⁰ Eus. H.E. 3.32.3. Trans. of Lake/Oulton, Eusebius, 1.273-275. In 3.1.1 Hegesippus holds that Clopas was the brother of Joseph.

¹⁹¹ Eus. H.E. 3.32.6. Trans. of Lake/Oulton, Eusebius, 1.275.

¹⁹² Barnes, Hagiography, 338-339. Cf. also his comments on the question of Atticus’s identity.

¹⁹³ Cf. Kuhn, Die Kreuzesstrafe, 706-718 and Cook, Crucifixion and Burial, 197-204.

¹⁹⁴ See figures 5-7. M. Guarducci, Iscrizioni greche e latine in una *taberna* a Pozzuoli, in: Acta of the Fifth International Congress of Greek and Latin Epigraphy Cambridge 1967, Oxford 1971, 219-223.

¹⁹⁵ From Cook, Crucifixion as Spectacle, 93.

crucifixion of a woman that he knew, although it is possible that it is a sort of curse text.¹⁹⁶

3.15 Africa

Tertullian knows of crucifixions in Carthage:

In Africa infants used to be sacrificed to Saturn openly until the proconsulate of Tiberius, who exposed the priests themselves alive as votive crosses on the same trees of their temple that offered shade for their crimes; the military of our own father is a witness to it, which executed that same duty for that proconsul.

Infantes penes Africam Saturno immolabantur palam usque ad proconsulatum Tiberii, qui ipsos¹⁹⁷ sacerdotes in eisdem arboribus templi sui obumbratricibus scelerum uotuiis crucibus uiuos¹⁹⁸ exposuit, teste militia patris nostri,¹⁹⁹ quae id²⁰⁰ ipsum munus²⁰¹ illi proconsuli functa est.²⁰²

¹⁹⁶ On these graffiti cf. Cook, *Crucifixion as Spectacle*, 92-8. For an excellent photograph, cf. F. Zevi, *Puteoli*. [Vol. 2]: *La carta archeologica*, vol. 1-2, photographs by M. Jodice, Naples 1993, 1.274. Professor Giuseppe Camodeca, who with Professor Giulia Sacco is preparing an edition of all the graffiti in the *taberna*, is responsible for the Trajanic-Hadrianic dating of the graffito. Cf. idem, *Per una storia economica e sociale di Puteoli da Augusto ai Severi*, in: *Civiltà dei Campi Flegrei: Atti del Convegno Internazionale*, ed. M. Gigante, Naples 1992, 137-172, esp. 143 and *Comunità di peregrini a Puteoli nei primi due secoli dell'impero*, in: *Le vie della storia. Migrazioni di popoli, viaggi di individui, circolazioni di idee nel Mediterraneo antico. Atti II Incontro intern. Storia Antica Genova 6-8 ottobre 2004*, *Serta antiqua et mediaevalia* 9, Rome 2006, 269-287, esp. 275. I am grateful for his help with the graffiti.

¹⁹⁷ *ipsos* F, *eosdem* P.

¹⁹⁸ *uiuos* F, om. P.

¹⁹⁹ *patris nostri* F, *patriae nostrae* P.

²⁰⁰ *id* P, *ad* F.

²⁰¹ *munus* P, *manus* F.

²⁰² Tert. Apol. 9.2 (CChr.SL I, 102,4-8 Dekkers and Tertul-lià, *Apologètic*, ed., intro. and notes by M. Dolç, Barcelona 1960, 88,1-5). Both editors adopt MS *Fuldensis*' (IX C.E., now lost, = F) reading, *patris nostri*, instead of *patriae nostrae* found in the "common tradition," e.g. Parisinus 1623 (X C.E.) = P. Jerome presumably knew the first reading, because of his description of Tertullian's father (Vir. ill. 53: *patre centurione proconsulari*). Aubert, *Double Standard*, 121 (this may not be crucifixion). T. D. Barnes, *Tertullian. A Historical and Literary Study*, Oxford 1971, 13-9 argues for *patriae nostrae* as the correct reading since the practice of child sacrifice had long ceased by Tertullian's time. In addition (*ibid.*, 11-2) *proconsularis* is not attested as a rank in the Roman army. A. Wypustek (*The Problem of Human Sacrifices in Roman North Africa*, *Eos* 81 [1993] 263-80), however, shows that archaeological evidence for human sacrifice in the region stopped in late I B.C.E. (*ibid.*, 264). He is intensely sceptical of Tertullian's account. On the other hand, one may argue that Tertullian was aware of an unusual event. Wypustek (268) also argues that *centurio proconsulis* could be "an unofficial title used in current language for a person in the officium with the rank of *centurio*, or simply for *centurio* of the *cohors urbana* in Carthage."

Kuhn asks whether the proconsul could be C. Serius Augurinus (169/70).²⁰³ If the event happened it is not evidence that child sacrifice was still a frequent practice in Carthage. The archaeological evidence does not support the existence of systematic child sacrifice in the region.²⁰⁴ Although critical of aspects of the narrative, J. B. Rives defends the historicity of the executions (the priests were exposed on trees while still alive, “clearly a type of crucifixion”).²⁰⁵

3.16 Avidius Cassius (175)

There are a number of examples of crucifixion in the *Historia Augusta*. Even though one cannot prove their historical accuracy, one may assume that the author (*scriptor*) was aware of the continued practice of crucifixion during the period.

3.16.1 Soldiers Guilty of Robbery

The *scriptor* of the *Historia Augusta* depicted the cruelty of the pretender Avidius Cassius (before 175 C.E.) against his soldiers:²⁰⁶

... there are many indications of savagery, rather than strictness, on his part. For, in the first place, soldiers who had forcibly seized anything from the provincials he crucified [raised to a cross] on the very spot where they had committed the crime.

... multa extant crudelitatis potius quam severitatis eius indicia, nam primum milites qui aliquid provincialibus tulissent per vim, in illis ipsis locis, in quibus peccaverant, in crucem sustulit.²⁰⁷

Callistratus noted that bandits were crucified where they carried out their crimes.²⁰⁸

²⁰³ Kuhn, Kreuzesstrafe, 704. Cf. PIR² S 545 (C. Serius Augurinus) who received a rescript from Marcus on 27 Jan. 170 (Cod. Iust. 3.31.1).

²⁰⁴ J. H. Schwartz, F. Houghton, R. Macchiarelli, L. Bondioli, (2010) Skeletal Remains from Punic Carthage do not Support Systematic Sacrifice of Infants, PLoS ONE 5(2): e9177.doi10.1371/journal.pone.0009177. <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0009177> (last accessed 10 Dec. 2012).

²⁰⁵ J. B. Rives, Tertullian on Child Sacrifice, MH 51 (1994), 54-63, esp. 55-56.

²⁰⁶ T. Honoré, Scriptor Historiae Augustae, JRS 77 (1987) 156-176 argues for a late fourth century author (165: written between 393/4 and 402, probably in 394/5; 169: the *scriptor* was a *grammaticus*). Cf. A. R. Birley, Avidius Cassius, Gaius OCD³, 226 and Aubert, Double Standard, 118.

²⁰⁷ SHA Avidius Cassius 4.1-2 (Vulcacius Gallicanus). Trans. of Historia Augusta, vol. 1-3, LCL, ed. and trans. D. Magie, Cambridge, MA/London 1921-1932, 1.239.

²⁰⁸ Callistratus 6 De cognitionibus in Dig. 48.19.28.15 (chapt. 5 § 1.5) and cp. [Quint.] Decl. min. 274.13 (chapt. 1 § 2.8) for criminals crucified on the most crowded roads. Cf. Hengel, Crucifixion, 50.

3.16.2 “Disobedient” Centurions

The *scriptor* tells a story in which some centurions, without Cassius’s knowledge, attacked a large force of Sarmatians on the Danube with a much smaller number of soldiers. They expected a reward. Instead Cassius “... had them arrested and crucified [raised to a cross], and punished them with the punishment of slaves, for which there was no precedent (*rapi eos iussit et in crucem tolli servilique supplicio adfici, quod exemplum non extabat*).²⁰⁹ Cassius Dio (book 71) does not verify any of these accounts.

3.17 Commodus (180-192): An Accuser (calumniator)

Septimius Severus (imperator from 193-211) was accused of consulting astrologers about the fate of Commodus:

While he was in Sicily he was indicted for consulting about the imperial dignity with seers and astrologers, but because Commodus was now beginning to be detested, he was acquitted by the prefects of the guard to whom he had been handed over for trial, while his accuser was crucified.

*In Sicilia quasi de imperio vel vates vel C<h>ald<a>eos consulisset, reus factus est. A praefect. praet., quibus audiendus datus fuerat, iam Commodo in odium<m> veniente absolutus est calumniatore in crucem acto.*²¹⁰

According to Ps. Paulus, slaves who consulted astrologers about their master’s life were crucified.²¹¹ Ulpian noted that those who consulted an astrologer or prophet concerning the emperor’s health (*de principis salute*) were subject to a capital penalty (*capite puniti sunt*).²¹² Apparently Commodus (or a delator) viewed Severus’s alleged crime as described by the *calumniator* in a similar way. According to the *scriptor*, Opellius Macrinus executed delators (accusers) if they did not prove their case (*delatores, si non probarent, capite*

²⁰⁹ SHA Avidius Cassius 4.6 (Vulcacius Gallicanus). Trans. of Magie, *Historia Augusta*, 1.241. R. Syme, *Avidius Cassius: His Rank, Age, and Quality* in idem, *Roman Papers*, vol. 5, ed. A. R. Birley, Oxford 1981, 689-701, esp. 689 describes the crucifixion of the centurions “who without waiting for orders had won an opportune victory over the Sarmatians” (accepting the historicity of the account). Aubert, *Double Standard*, 118 refers to the influence of Cic. Ver. II 5 (*De suppliciis*) in the *Historia Augusta*, which emphasized the “unusual cruelty of those responsible for the executions.”

²¹⁰ SHA Septimius Severus 4.3 (Aelius Spartianus), trans. of Magie, *Historia Augusta*, 1.379. The *scriptor* then claims Severus served his first consulate (190 or 189, cf. Kienast, *Römische Kaisertabelle*, 157). Aubert, *Double Standard*, 118.

²¹¹ PS 5.21.4 (chapt. 5 § 1.7).

²¹² Ulpian 7 *De officio procons.* in *Collatio* 15.2.3 (380 Kübler).

affecit).²¹³ A law of Gratian had delators who failed to prove their accusation executed by the same form of death that the accused would have suffered.²¹⁴

3.18 Pertinax (31 Dec. 192-28 March 193): Slave-Informers (*delatores*)

The *scriptor* of the *Historia Augusta* describes the punishment of slaves who had informed against their masters:

He absolved a number of men whose slaves had assailed them with false charges, and punished severely those who brought the accusation, crucifying [raising on a cross] all such slaves ...

*eos, qui calumniis adpetiti per servos fuerant, damnatis [servis] delatoribus liberavit in crucem sublati talibus servis ...*²¹⁵

What is probably a decree of Galerius in 305 specified crucifixion for slaves or freedmen who accused their masters or patrons.²¹⁶

3.19 Clodius Albinus (195/196): A Legionary Centurion

The pretender Clodius Albinus is also reputed to have been cruel toward his soldiers.

For he would often crucify [raise on a cross] legionary centurions, even when the character of the offence did not demand it, and he certainly used to beat them with rods and never spared [offenses].

*nam saepe etiam ordinarios centuriones, ubi causae qualitas non postulavit, in crucem sustulit. verberavit certe virgis saepissime neque <u>mquam delictis pepercit.*²¹⁷

²¹³ SHA Opellius Macrinus 12.11 (Iulius Capitolinus).

²¹⁴ CTh 9.1.14 (Gratian, Valentinian and Theodosius to Marinanus, vicarius of Spain, 27 May 383 C.E.), although the reference is to an accusation of homicide.

²¹⁵ SHA Pertinax 9.10 (Iulius Capitolinus), trans. of Magie, *Historia Augusta*, 1.335. T. Mommsen compares this text with that of Herodian 5.2.2 quoted below (*Der Prozess des Christen Apollonius unter Commodus* in: idem, *Gesammelte Schriften*, vol. 3, Berlin 1907, 447-454, esp. 453). In Eus. H.E. 5.21.3 a slave who informed against his Christian master suffered *crurifragium* (reign of Commodus) – the judge following an imperial edict.

²¹⁶ Cf. chapt. 5 § 1.8. The *edictum de Accusationibus*, probably issued by Galerius in 305, decrees the *patibulum* for slaves who inform against their masters. Cf. CTh 9.5.1 and on the chronology S. Corcoran, *Galerius's Jigsaw Puzzle: The Caesariani Dossier*, *AntTard* 15 (2007) 221-250.

²¹⁷ SHA Clodius Albinus 11.6 (Iulius Capitolinus), trans. of Magie, *Historia Augusta*, 1.483. A. R. Birley, *Clodius Septimius Albinus*, *Decimus*, *OCD*³, 351 notes that the biography is “mainly fictional.” There is no independent verification of the crucifixions in Herodian II-III and Cassius Dio LXXIII-LXXV. On the function of the “ordinary” centurions (who commanded centuries) and not the *primi ordines*, cf. F. Gillam, *Ordinarii and the Ordinatio of the Roman Army*, *TAPA* 71 (1940) 127-148, esp. 131 (with “the customary expression” of reservations about passages in the SHA, particularly with regard to terminology).

Apparently the *scriptor* viewed the crucifixion of centurions as appropriate in certain circumstances.

3.20 Opellius Macrinus (11 April 217-8 June 218): Soldiers, Informers, and Slave-Informers

The *scriptor* describes the cruelty of Opellius Macrinus, “for he even crucified [raised to a cross] soldiers and always imposed the punishments meted out to slaves” (*nam et in crucem milites tulit et servilibus suppliciis semper adfecit*).²¹⁸ When Macrinus came to power, according to Herodian, “Informers and slaves who had denounced their masters were crucified” (συκοφάνται τε ἡ δοῦλοι, ὅσοι δεσπότης κατήγγελον, ἀνεσκολοπίσθησαν).²¹⁹

3.21 Severus Alexander (222-235)

3.21.1 A Eunuch Who Sold an Imperial Favor

Severus Alexander was harsh towards his eunuchs according to the *scriptor*:

For he used to say that eunuchs were a third sex of the human race, one not to be seen or employed by men and scarcely even by women of noble birth. And when one of them sold a false promise in his name and received a hundred aurei from one of the soldiers, he ordered him to be crucified [raised to a cross] along the road which his slaves used in great numbers on their way to the imperial country-estates.

idem tertium genus hominum eunuchos esse dicebat nec videndum nec in usu habendum a viris, sed vix a feminis nobilebus. qui de eo fumos vendiderat et a quodam militari centum aureos acceperat, in crucem tolli iussit per eam viam, qua esset servis suis ad suburbana imperatoria i[n]ter frequentissimum.

Using crucifixion on well traveled roads to discourage offenders was clearly a Roman practice.²²⁰

²¹⁸ SHA Macrinus 12.2 (Iulius Capitolinus). Trans. of Magie, *Historia Augusta*, 2.73. Aubert, *Double Standard*, 118. The crucifixions are not mentioned by Herodian 4.14 – 5.4 or by Cassius Dio 78 (in the material that survives). Kyle, *Spectacles*, 32, although expressing some skepticism over the “quantitative dimensions” of death in the SHA, writes, “... the qualitative aspects of the accounts were intelligible to a Roman audience and find corroboration in Dio and Suetonius.”

²¹⁹ Herodian 5.2.2.

²²⁰ SHA Severus Alexander 23.8 (Aelius Lampridius), trans. of Magie, *Historia Augusta*, 2.221-223. G. Boulvert, *Domestique et fonctionnaire sous le Haut-Empire romain. La condition de l'affranchi et de l'esclave du prince*, Paris 1974, 118 accepts the reality of this event and refers to other texts in the SHA in which imperial slaves or freedmen are held accountable for corrupt practices. On the crucifixion of notorious bandits in the places where they committed their murders, see § 3.16.1 above.

3.21.2 A Public Official in Military Service Guilty of Theft

He was said to have despised thieves so much as “enemies of the state” that when a disgraced public official entered military service under the patronage of some kings and was convicted of theft:

the kings were asked what penalty thieves suffered at their hands, and they replied “the cross,” and at this reply the man was crucified [raised to a cross].

*et cum quaereretur a regibus, quid apud eos paterentur fures, illi responderunt: 'crucem'. ad eorum responsum in crucem sublatus est.*²²¹

A prefect of the night watch who committed theft was punished by the supreme penalty according to Pomponius (and may consequently have been crucified).²²²

3.22 Maximinus Thrax (235-238)

According to the *scriptor*, the Senate and people of Rome prayed that Maximinus should never see Rome:

For they kept hearing that he hung men on the cross [raised individuals to a cross], shut them in bodies of animals newly slain, cast them to wild beasts, dashed out their brains with clubs, and all this for no desire for personal authority but because he seemed to wish military discipline to be supreme, and wished to amend civil affairs on that pattern.

*audiebant enim alios in crucem sublato, alios animalibus nuper occisis inclusos, alios feris obiectos, alios fustibus elisos, atque omnia haec sine dilectu dignitatis, cum videretur disciplinam velle regere militarem. cuius exemplo civilia etiam corrigere voluit ...*²²³

After the senate proclaimed Gordian emperor the *scriptor* describes the Senate's response:

Concerning the Maximini, Conscript Fathers, what is your pleasure?" They replied, "Enemies, enemies! He who slays them shall have a reward." Again the consul spoke: "Concerning the friends of Maximinus, what seems good" And they cried out, "Enemies, enemies! He who slays them shall have a reward." And then they cried out: "Let the foe of the senate be hanged on a cross [raised to a cross]. Let the senate's enemy everywhere be smitten. Let the senate's foes be burned alive.

²²¹ SHA Severus Alexander 28.2-5 (quotation from 28.5), trans. of Magie, *Historia Augusta*, 2.233. Neither of the crucifixions is mentioned in Herodian 5-6 or by Cassius Dio 79-80. A. Timonen, *Cruelty and Death. Roman Historians' Scenes of Imperial Violence from Commodus to Philippus Arabs*, *Annales Universitatis Turkuensis humaniora* 241, Turku 2000, 8 n.3 refers to Alexander's *servata clementia* in 28.5 (presumably accepting the account's historicity).

²²² Pomponius 22 Ad Sabinum in Dig. 12.4.15 (chapt. 5 § 1.2).

²²³ SHA Maximini duo 8.7 (Iulius Capitolinus), trans. of Magie, *Historia Augusta*, 2.331. Herodian (7.1.12, 7.6.3) mentions the emperor's cruelty. Timonen (*Cruelty and Death*, 137) is only willing to commit himself to: "his rumored cruel punishments inspired fear among the senators." For comments on the background of the punishment using animals, cf. A. Chastagnol, *Aspects de l'antiquité tardive*, ed. I. Tantiolo, Rome 1994, 242.

*item consul rettulit: “p[atres] c[onscripti], de Maximinis quid placet?” responsum est: “hostes, hostes. qui eos occiderit, praemium merebitur.” item consul dixit: “de amicis Maximini quid vide[re]tur?” adclamatum est: “hostes, hostes. qui eos occiderit, praemium merebitur.” item adclamatum est: “inimicus senatus in crucem tollatur. hostis senatus ubicumque feriat. inimici senatus vivi exurantur.”*²²⁴

Asko Timonen interprets the threat of crucifixion to refer to the Maximini and not the friends.²²⁵ Jean-Pierre Callu, however, believes that by an act of retortion the Senate’s acclamation decreed either crucifixion or execution by burning for the friends of Maximinus.²²⁶ Maximinus’s soldiers eventually killed his son and him and impaled their heads on pikes (*capita praefixa contis*).²²⁷ During the reign of Gallienus, the pretender Celsus was killed and “his image was set up on a cross, while the mob pranced about, as though they were looking at Celsus himself affixed to a gibbet [*patibulum bar*]” (*genere imago in crucem sublata persultante vulgo, quasi patibulo ipse Celsus videretur adfixus*).²²⁸ Septimius Severus had Albinus’s head sent to Rome and suspended/impaled there (τὴν δὲ κεφαλὴν ἐς τὴν Ῥώμην πέμψας ἀνεσταύρωσεν).²²⁹ There is ambiguity in the text that orders crucifixion for the “enemy of the Senate.” It is not simply a reference to suspending a dead body, since the implication is that it is a means of execution. Given the context of the passage in which the consul has asked what the fate of the friends of the Maximini should be, Callu’s interpretation seems more likely. There is no indication in the narrative that the Senate actually had any of the friends

²²⁴ SHA Maximini duo 16.6 (Iulius Capitolinus), trans. of Magie, *Historia Augusta*, 2.347.

²²⁵ Timonen, *Cruelty and Death*, 196. Hengel, *Crucifixion*, 41 also interprets the text similarly.

²²⁶ J.-P. Callu, *Le jardin des supplices au bas-empire*, in *Du châtimement dans la cité*, 313-59, esp. 321. Maximinus’s son Maximus is mistakenly called “Maximinus” in the SHA. Cf. Kienast, *Römische Kaisertabelle*, 185.

²²⁷ SHA Maximini duo 23.6. Maximinus committed suicide according to a tradition in 32.5.

²²⁸ SHA Tyranni Triginta 29.4 (Trebellius Pollio), trans. of Magie, *Historia Augusta*, 3.133. Cf. chapt. 1 § 3.2. In 1591 the statue of a tea-master named Sen no Rikyū was crucified (cf. *harisuke* discussed below in chapt. 6 § 2) by Toyotomi Hideyoshi, a military leader (cf. G. P. A. Levine, *Daitokuji*, *The Visual Cultures of a Zen Monastery*, Seattle/London 2005, 83-6). Rikyū was still alive, although Hideyoshi later forced him to commit suicide.

²²⁹ Cassius Dio 75.7.3 (Boissovain = 76.7.3 LCL). Cp. Herodian 3.8.1: πέμψας τὴν κεφαλὴν τοῦ Ἀλβίνου δημοσίᾳ ἀνεσταυρωθῆναι κελεύει (and sending the head of Albinus [to Rome] he ordered that it be suspended/impaled publicly) and Hengel, *Crucifixion*, 41. Severus (Cassius Dio 74.8.3) also had Pescennius Niger’s head sent to Byzantium and suspended (ταύτην ὁ Σεουήρος ἐς τὸ Βυζάντιον πέμψας ἀνεσταύρωσεν). For an exhaustive survey of this practice, cf. J.-L. Voisin, *Les Romains, chasseurs de têtes*, in *Du châtimement dans la cité*, 241-93.

crucified. In 238 there was a riot in Rome when a rumor of Maximinus's death reached the city. His statues were overturned, for example.²³⁰

3.23 Maximian (Aurelius Valerius Maximianus; Oct./Dec. 285-ca. July 310): Ardalion

According to late Christian tradition, a mime named Ardalion was hung on a cross during Maximian's reign and was "combed" (tortured):

This man [Ardalion] during the time of the imperium of Maximianus mimed and played the part of the martyrdom-stories [Passions] and dramas of others. And once, he conceived the notion of playing the part of the constancy of the Christians' martyrdom. After being hung up (i.e., "crucified"), because he would not make drink-offerings to the gods, he was combed.

Οὗτος κατὰ τοὺς χρόνους ἦν Μαξιμιανοῦ τοῦ βασιλέως, ἐν τοῖς θεάτροις μιμούμενος καὶ τὰ ἐτέρων ὑποκρινόμενος πάθη²³¹ καὶ δράματα. Καὶ ποτε δόξαν αὐτῷ τὴν κατὰ τὸ μαρτύριον ἔνστασιν τῶν χριστιανῶν ὑποκρίνασθαι, ἀναρτηθεῖς²³² ὡς τοῖς θεοῖς μὴ προσάγων σπονδάς, ἐξέετο.

He, however, was burned to death (πυρᾶς ἐξαφθίσεως ἐν μέσῳ βληθεὶς) after confessing Christianity.²³³ Even if the account is not historical, similar mimes may have taken place.²³⁴ Kathleen Coleman, however, accepts the his-

²³⁰ Herodian 7.6.9-7.4 and Kyle, Spectacles, 237.

²³¹ Cf. LPGL s.v. IV: "suffering, passion of martyrs ...; story of martyrdom ἀναγινωσκεισθαι τὰ π. τῶν μαρτύρων *Cod. Afr.* 46 (Lat. *passio*)."

²³² ἀναρτάω can imply crucifixion in Greek texts: Historia Alexandri Magni, Recensio β 1.35 (AUS.SGS III, 56,6-8 Bergson): ... εὐθὺς τοὺς ἀποσταλέντας ἀγγέλους παρὰ Ἀλεξάνδρου τοῦ βασιλέως ἀναρτίζεσθαι λέγοντες αὐτοῖς. "ποῖος ὡμὸν ἐστὶν Ἀλέξανδρος;" τῶν δὲ λεγόντων μηδένα εἶναι ἀνεσταύρωσαν αὐτούς. [Athanasius], Disputatio contra Arium (PG 28.488) ... καὶ ἀναρτήσαντες, κατέπηξαν αὐτόν, ὡς ἐπὶ χάρακι ἄμπελον, ἐπὶ τοῦ σταυροῦ. Such examples can be multiplied.

²³³ Synaxarium Eccl. Const. April. 18.3 (Propylaeum ad Acta Sanctorum Novembris, ed. H. Delehay, Brussels 1902, 612,9-24). Cp. Menologio Bas. xvii April (PG 117.408), Typicon Magnae Ecclesiae (268,5-6 Mateos [edited without the narrative]), Nicolaus Cabasilas, Vita in Christo 2.83 (baptized, crucified nude and wounded), 2.85 (baptized, received the stigmata of Christ) (SC 355, 210,1-18; 212,1-214,14 Congourdeau) and the summary in AA.SS April. II (1866) 213. For the MS of the Menologio Bas. cf. II Menologio di Basilio II. (Cod. Vaticano greco 1613.) I. Testo. (II. Tavole), Codices e Vaticanis selecti photypici expressi 8, Turin 1907 (*non vidi*). AA.SS April. II (1866) 213 identifies the Basil as Basilus Porphyrogenitus (Basil II) as does N. P. Ševcenko, Menologion of Basil II (Vat gr. 1613), in: Oxford Dictionary of Byzantium, vol. 2, ed. A. P. Kazhdan et al., New York/Oxford 1991, 1341-2 who dates it to "sometime after 979" and notes that it is a version of the Synaxarion of Constantinople. Cp. J. Pahlitzsch, Synaxarion of the Great Church, in: Christian-Muslim Relations. A Bibliographical History. Volume 3 (1050-1200), ed. D. Thomas and A. Mallett, Leiden 2011, 574-85, esp. 574, 583 (between 945 and 959 [the date of the Syn. Eccl. Const.]).

²³⁴ See E. Wüst, Mimos, PRE XV (1932) 1727-1763, esp. 1756-1757 and H. Reich, Der Mimos. Ein litterarentwicklungsgeschichtlicher Versuch, vol. 1-2, Berlin 1903, 1.83-85 (and 436-453 on Ardalion as a figure in earlier pagan mimes).

toricity of the account, and similar deaths may have been enacted to mock Christianity.²³⁵ According to Athanasius, the Arians, with the cooperation of judges, stripped consecrated Christian virgins, hung them on *Hermetaria* (instruments of torture)²³⁶ and combed (or pierced) their sides three times, something even criminals never suffered.²³⁷ He then mentions the piercing of Jesus' side by Pilate. E. Wüst remarks that Christians were often the object of mimes. Gregory of Nazianzus, for example, in a text in which he discusses how Christians have become a "new spectacle" (θέατρον καινόν) writes,

Already we have advanced to the stage, which I almost weep saying, and we are laughed at along with the most licentious of people; and there is nothing so pleasurable in that which is heard and seen, as a Christian being lampooned.

Ἡδη δὲ προήλθομεν καὶ μέχρι τῆς σκηνῆς, ὃ μικροῦ καὶ δακρύω λέγων, καὶ μετὰ τῶν ἀσελγαστάτων γελώμεθα· καὶ οὐδὲν οὕτω τερπνὸν τῶν ἀκουσμάτων καὶ θεαμάτων, ὥς Χριστιανὸς κωμωδοῦμενος.²³⁸

The conclusion with regard to the historicity of the tradition should probably be somewhat sceptical due to the late nature of the evidence for the Ardalio narrative.

²³⁵ Coleman, *Fatal Charades*, 65 and idem, *Liber Spectaculorum*, 90.

²³⁶ This was a word used in Egypt. The entry in LPGL s.v. ἐρμητάριον is inadequate: "stake to which prisoners were tied to be flogged." Its use as a loanword in Coptic martyrologies indicates that it was a more elaborate instrument of torture. Cf. *Les actes des martyrs de l'Égypte* ..., vol. 1, ed. and trans. H. Hyvernat, Paris 1886 (who translates it as *chevalet* [horse] with little apparent justification): 40 (suspended and tortured); 47 (suspended and tortured); 98 (suspended and tortured); 105 (a martyr speaking from his suspended position); 129 (suspended and tortured until their blood flowed on the ground); 142 (two suspended on the same hermetarion); etc. See V. MacDermot, *The cult of the seer in the ancient Middle East. A contribution to current Research on Hallucinations Drawn from Coptic and Other Texts*, Los Angeles/Berkeley 1971, 541-542, 646, 709, 729-731, 734, 736. W. E. Crum, *A Coptic Dictionary*, Oxford 1939 s.v. 225a in a definition of a Coptic word (defined as "place of lying, couch"), mentions a further usage of the Coptic word as "torture-bed" and in parentheses writes ἐρμητάριον. MacDermot, *ibid.*, 786 defines it as "possibly a type of gallows or a bed for torture." See also Halm-Tisserant, *Realités*, 35-6.

²³⁷ Athanasius *Apol. ad Const.* 33 ἐπὶ τῶν καλουμένων ἐρμηταρίων κρεμασθῆναι (SC 56, 129, 16-21 Szymusiak).

²³⁸ Wüst, *Mimos*, 1757, with ref. to *Greg. Naz. Apol.* 84 (orat. 2) (PG 35.489).

3.24 Maximinus Daia (1 May 305-late summer 313)²³⁹

3.24.1 The Martyrs of Egypt

Eusebius described the suffering of the martyrs in Egypt, a country he had visited ca 312-313.²⁴⁰

... others again were crucified, some as malefactors usually are, and some, even more brutally, were nailed in the opposite manner, head down-wards, and kept alive until they should perish of hunger on the gibbet [mast/cross].

οἱ δὲ καὶ ἐναποθανόντες ταῖς βασάνοις, ἕτεροι δὲ λιμῷ διαφθαρέντες, καὶ ἄλλοι πάλιν ἀνασκολοπισθέντες, οἱ μὲν κατὰ τὸ σὺνηθες τοῖς κακούργοις, οἱ δὲ καὶ χειρόνως ἀνάπαλιν κάτω κάτω προσηλωθέντες τηρούμενοί τε ζῶντες, εἰς ὅτε καὶ ἐπ' αὐτῶν ἰκρίων²⁴¹ λιμῷ διαφθαρεῖεν.²⁴²

These executions are clearly not impalements but crucifixions. Maximinus's persecution was brutal:

For the men endured fire and sword and nailings; wild beasts and engulfing in the sea; cutting off and burning of limbs, stabbing and digging out of eyes, and mutilation of the whole body.

οἱ μὲν γὰρ ἄνδρες ἀνατλάντες πῦρ καὶ σίδηρον καὶ προσηλώσεις θήρας τε ἀγρίους καὶ θαλάττης βυθούς ἀποτομάς τε μελῶν καὶ καυτήρας καὶ ὀφθαλμῶν κεντήσεις τε καὶ ἐξορύξεις καὶ τοῦ παντὸς σώματος ἀκρωτηριασμούς ...²⁴³

Eusebius, in his *Life of Constantine*, included a description the persecution:

He [Maximin] was not satisfied with fire and iron and crucifixion [nailing], wild beasts and deep seas, but went on to invent a new form of torture in addition to all these, and decreed that the organs of sight should be mutilated.

²³⁹ Cf. Barnes, *Hagiography*, 341-342 and T. Christensen, *Rufinus of Aquileia and the Historia Ecclesiastica*, Lib. VIII-IX, of Eusebius, *Historisk-filosofiske Meddelelser* 58, Copenhagen 1989, 106-107 on the persecution Maximin instituted after Galerius's edict of April 311 (with ref. to H.E. 9.6.1-3). S. Mitchell, *Maximinus and the Christians in A.D. 312: A New Latin Inscription*, *JRS* 78 (1988) 105-124, esp. 116: Maximinus's final edict of religious freedom for Christians was May of 313.

²⁴⁰ Eus. H.E. 8.9.4 (Barnes, *Hagiography*, 342) and cp. Barnes, *Constantine and Eusebius*, Cambridge, MA/London 1981, 148.

²⁴¹ See the note on this word, used for a cross, in intro. § 2.1.

²⁴² Eus. H.E. 8.8.1, trans. of Lake/Oulton, Eusebius, 2.275. Cp. the similar account in *Laus C.* 7.7 (GCS Eusebius Werke I, 213,35-214,3 Heikel) ... πάντα τρόπον θανάτου γέλωτα ἔθεντο, πῦρ καὶ σίδηρον καὶ προσηλώσεις, θήρας τε ἀγρίους καὶ θαλάττης βυθούς, ἀποτομάς μελῶν καὶ καυτήρας, ὀφθαλμῶν ἐξορύξεις, τοῦ παντὸς σώματος ἀκρωτηριασμούς ... (they [the martyrs] made every form of death an occasion of laughter: fire, iron [the sword], nailings, wild beasts, the depths of the sea, amputations and searing of bodily limbs, digging out of the eyes, and mutilations of the entire body ...). Cp. Christensen, *Rufinus*, 61-62.

²⁴³ Eus. H.E. 8.14.13. Trans. of Lake/Oulton, Eusebius, 2.309. Christensen, *Rufinus*, 150-151 remarks that the account is a summary of chapters 7-12.

οὐκ ἀπέρκει γὰρ αὐτῷ πῦρ καὶ σίδηρος καὶ προσήλωσις οὐδέ γε θῆρες ἄγριοι καὶ θαλάττης βυθοί, ἥδη δὲ πρὸς ἅπασιν τοῦτοις ξένην τινα κόλασιν αὐτὸς ἐφευρών, τὰ τοῦ φωτὸς αἰσθητήρια λυμαίνεσθαι δεῖν ἐνομοθέτει.²⁴⁴

Apparently Eusebius himself had seen some of these executions. The word for nailing (προσήλωσις) demonstrates that Eusebius refers to crucifixion in this passage.

3.24.2 Theodulus

In Palestine the last known crucifixion before Constantine was that of the Christian slave Theodulus on 16 February 310:

In the footsteps of Seleucus came Theodulus, a venerable and godly old man, who had been accounted worthy of the highest position in the governor's household, and had been honored by Firmilianus himself more than all the others in his house on account of his character and age – for he had lived to see the third generation – and, still more, for the good-will he ever bore to his superiors. Now he also had done a similar action to that of Seleucus, and had saluted a certain martyr with a kiss. So he was brought before his master, whom he infuriated to anger more than did the others, and received the same martyrdom as the Savior in His Passion; for he was delivered to the cross.

κατ' ἔχρος δῆτα τῷ Σελεύκῳ Θεόδουλος σεμνός τις καὶ θεοσεβὴς παρῆι πρεσβύτης, τῆς ἡγεμονικῆς οἰκετίας πρώτης τιμῆς ἡξιωμένος τρόπων καὶ ἡλικίας ἔνεκα καὶ διὰ τὸ τριγενείας αὐτὸν πατέρα καθεστάναι καὶ ἔτι μᾶλλον δι' ἣν ἔσφζε περὶ τοὺς κηδεμόνας εὐνοίαν. τὸ παραπλήσιον δὲ τῷ Σελεύκῳ καὶ οὗτος διαπραξάμενος καὶ τινα τῶν μαρτύρων ἀσπασάμενος φιλήματι, προσάγεται τῷ δεσπότη, μᾶλλον τε αὐτὸν τῶν ἄλλων ἐπ' ὀργὴν ὀξύνας, ταὐτὸν τοῦ σωτηρίου μαρτύριον πάθους σταυρῷ παραδοθεὶς ἀνεδέξατο.²⁴⁵

From his master's perspective, it is possible Theodulus was crucified for being a disobedient slave, but from the perspective of Christian tradition, he was a crucified because of his faith.²⁴⁶

4 The Frequency of Crucifixion

The chronological distribution of the historical reports of crucifixion could imply that the usage of the penalty was far more frequent from the Second Punic War through first century of the common era than in the subsequent centuries leading up to Constantine's abolition of its use. From the Second

²⁴⁴ Eus. Vita C. 1.58.2. Trans. of A. Cameron and G. S. Hall, *Life of Constantine* by Eusebius of Caesarea, Oxford 1999, 93.

²⁴⁵ Eus. Mart. Pal. (long rec.) 11.24 (SC 55, 165-166 Bardy). Trans. of Eusebius, *The Ecclesiastical History and the Martyrs of Palestine*, trans. with intro. and notes by H. J. Lawlor and J. E. L. Oulton, vol. 1-2, London/New York 1927/28, 1.391-392. Cp. Barnes, *Constantine and Eusebius*, 154 for the date of martyrdom, 16 Feb. 16 310 (Mart. Pal. 11.7).

²⁴⁶ Barnes, *Hagiography*, 341 (crucified not as a Christian, but as a "disobedient slave").

Punic War until Augustus's reign there are twenty-seven incidents of crucifixion and from Augustus's reign until Trajan there are thirty-three.²⁴⁷ The numbers of victims, when they are given, vary widely. An uncritical reading of the sources might lead the historian to assume that after the first century magistrates became increasingly unwilling to crucify condemned individuals. After Trajan one is primarily dependent on what have been called the "fatal charms" of the *Historia Augusta* for narratives of alleged crucifixions until the persecution of Diocletian. This is a problem whose root is the lack of reliable historical sources for the second and third centuries. Cassius Dio and Herodian seem to have been uninterested in offering accounts of the penalty for their own era.²⁴⁸ The former ended his work with a brief account of Severus Alexander and included no Roman crucifixions from the first or second century C.E. in the existent text. The latter covered the period from Marcus Aurelius to the accession of Gordian III (238) and only gave one example of crucifixions.²⁴⁹ The *Historia Augusta* contains nine crucifixion narratives for the period that overlaps Herodian's material, and Herodian provides confirmation of the *scriptor's* material in only one case. But even in that example, the *scriptor* describes the execution of soldiers by Macrinus while Herodian describes the emperor's execution of informers and slaves who denounced their masters.²⁵⁰ Tacitus provides an analogy. Although he refers to Roman crucifixions several times, he mentions none in Palestine, and without Josephus there would be a huge gap in the record.²⁵¹

It would be dangerous to conclude that crucifixion became far less frequent in the second and third centuries. Although *crux* (cross) in the *Digest* has been replaced by *furca* (fork, a different punishment), the occurrences of *furca* indicate that the jurists were aware of crucifixion as an accepted form of execution.²⁵² An inscription from Thessalonica, probably from III C.E.,

²⁴⁷ Second Punic War until Augustus's reign: § 2.1-16 (27 narratives). From Augustus' imperium to Trajan's: § 3.1-3.14. (33 narratives or references).

²⁴⁸ Only a few from each author appear above. Cassius Dio: § 2.15.6, 3.1.2. Herodian: § 3.20.

²⁴⁹ Cf. J. W. Rich, Cassius Dio, OCD³, 299-300 who notes that the historian (72.23.1-5) had gathered materials up to the death of Septimius Severus and wanted to describe events as far as possible. He ended up only covering briefly (80.1.1-5.3) the reign of Severus Alexander (who assumed power in 222). Cf. Herodian 8.8.8: Gordian III's accession in 238.

²⁵⁰ *Scriptores Historiae Augustae*: § 3.16-3.22. Herodian: § 3.20.

²⁵¹ Tacitus: § 3.5.2, 3.7, 3.8.1-2. Cf. Hengel, *Crucifixion*, 47 n. 4.

²⁵² Callistratus (era of Septimius Severus and Caracalla) *De cognitionibus* 6 in Dig. 48.19.28.pr. (*furca* [*crux*] as one of the supreme penalties), Callistratus *De cogn.* 6 in Dig. 48.19.28.15 (brigands), Ulpian (same era as Callistratus) *De officio procon.* 10 in Dig. 48.19.9.11 (decurions cannot be sentenced to the *furca* [*crux*]), Ulpian *De officio procon.* 7 in Dig. 48.13.7 (sacrilege), Modestinus (student of Ulpian, first half of III C.E.) *De poenis* 4 in Dig. 49.16.3.10 (deserters).

threatens tomb breakers with crucifixion.²⁵³ The *Sententiae* of Ps. Paulus, composed toward the end of the third century, confirm the continued use of crucifixion.²⁵⁴ An edict in the *Codex Theodosianus* that decrees crucifixion for slaves who inform against their masters, which the *Codex* attributes to Constantine, has now been redated to 305 and attributed to Galerius.²⁵⁵ The hypothesis that best fits the evidence, in my view, is that crucifixion continued unabated until Constantine's imperium.

5 Conclusion

The longest surviving narrative of anyone crucified by the Romans in antiquity is that of Jesus of Nazareth. Historical crucifixions *per se* seem to have been of little interest to Roman writers in the literature that has survived, with the exception of the crucifixion of Gavius, which Cicero mentioned frequently in his (never delivered) speech in prosecution of Verres. The crucifixions are incidents that occur in conjunction with themes in which the authors were more interested. The paucity of surviving names of the crucified victims illustrates that lack of interest: three named individuals were citizens (two of the cases are extremely suspicious); five were slaves; two were *liberti* (a man and a woman); and nine were *peregrini* like Jesus; and Alkimilla's identity is unknown, but she was probably a slave or *peregrina* if hers was a historical crucifixion.²⁵⁶

Most of the juridical reasons for the crucifixions are commonplace: brigandage or political disturbance such as rebellion, slave revolts, disobedience of slaves, various crimes of soldiers including acts of disobedience, and piracy.²⁵⁷ Other incidents that prompted (or allegedly prompted) crucifixions

²⁵³ SEG 53, 633. Cf. J. G. Cook, A Note on SEG 53, 633: Crucifixion in Imperial Thesalonica, *Early Christianity* 2 (2011) 387-390.

²⁵⁴ PS 5.17.2 (*crux* as one of the extreme penalties [*summa supplicia*]), Sent. 5.21.4 (slaves who consult soothsayers about their masters' lives [*crux* is the *summum supplicium*]), Sent. 5.22.1 (*crux* for those of lower social standing [*dignitas*] guilty of sedition) = Dig. 48.19.38.2 (where *crux* was replaced by *furca*), Sent. 5.23.1 (individuals of lower rank [*humiliores*] who are murderers, poisoners or whose false testimony leads to death of the accused), Sent. 5.23.15, 17 (magicians), Sent. 5.25.1 (*humiliores* who falsify wills or counterfeit), Sent. 5 in Dig. 48.19.38,1 (*furca* has replaced *crux*; deserters or those who betray "our counsels").

²⁵⁵ CTh 9.5.1. Cf. Corcoran, Galerius's Jigsaw Puzzle, 247 and J. G. Cook, Crucifixion in the West: From Constantine to Recceswinth, *ZAC* 16 (2012) 226-46, esp. 226-8.

²⁵⁶ The citizens: Valerius Soranus, Gavius of Consa, Gaius Silius. The slaves: Strato, Alexander, Theodorus, Geta, and Theodulus. The freedwoman and freedman: Ida and Asiaticus. The *peregrini*: Eros, Theodotus rhetor, Jesus, James, Simon, Peter (probably), Jehoḥanan, Diophon, and Symeon. Alkimilla?

²⁵⁷ Cf. the summary in Zestermann, Die Kreuzigung, 363 and chap. 5 § 1.5-7.

were: poisoning a ward (a tutor and citizen), aiding in the seduction of a Roman matron, spying for rebellious slaves (Gavius, a citizen), murder committed by a slave, divulging the secret name of Rome (a citizen), falsely accusing Septimius Severus of consulting astrologers concerning Commodus's fate (a citizen), "marrying" Claudius's wife (a citizen), the murder of Pompey, fighting in the Mithridatic wars (by slaves who were subsequently captured), taking part in the predation of tax farmers (a slave), refusing to testify falsely against a woman's son (a slave), selling imperial favors (a eunuch), theft, slaves' informing against their masters, sacrificing children, and arson (the Christians). Some of the crucifixions were simply examples of brute, coercitive power. Peter and Symeon were perhaps special cases, although Peter may have been crucified for arson and Symeon for political reasons because of his relationship with the family of Jesus. Crucifixion could be combined with other aggravated penalties (the Christians in the Neronian persecution and "Laureolus").²⁵⁸

²⁵⁸ Mart. Sp. 9(7).1-12 speculates his crime could have been murder of his master, arson in Rome, or temple theft.

Chapter Three

Crucifixion in Greek Texts

Crucifixion seems to have been fairly rare in Greece before the Roman era. It is difficult to determine if there was any form of execution that corresponds to the definition of crucifixion given in the introduction before that era. There are hints in various texts that something like crucifixion was used occasionally, however, and I will endeavor below to focus on material that appears to be particularly relevant for the investigation. There is some archaeological confirmation that a form of execution similar to crucifixion (being nailed to boards) was used occasionally in ancient Greece.¹ But due to the frequency of Roman crucifixions, one can assume that Greek texts from the Roman era often refer to that form of death – regardless of their historical accuracy. Because of the rarity of explicit mentions of impalement in Latin texts, one can also assume that it is not usually the intention of Greek texts from the Roman era that describe executions by suspension. As noted in the introduction (§ 2.1), there are no uses of the verbs σταυρόω or ἀνασταυρόω that describe explicit impalements of living individuals, so they can normally be translated with “crucify” or “suspend.” In addition, σταυρός (cross, beam) itself is not used explicitly for an impalement either. Hanging was not a penalty used in Attic Greece, nor was impalement a Greek penalty.²

1 Republic (Late Sixth Century until Caesar)

1.1 Aesop

In one of Aesop’s fables a brigand (ληστής) murders someone on the road. Travelers find him with stained hands, which he claims to have gotten from a mulberry tree:

When he said these things, the ones who were pursuing him caught up with him and seizing him they crucified him on a mulberry tree.

¹ Cf. intro. § 2.3.

² Halm-Tisserant, *Realités*, 19 (a lawless hanging of Agis, his mother and grandmother in Sparta in Plutarch *Ag. Cleom.* 20-1; *Sera* 554D contains a threat of hanging ὑπὲρ κεφαλῆς τοῦ σχοινοῦ χρημαμένου). Impalement: *ibid.*, 14, cf. § 10.5 below and intro. § 2.1.

καὶ ὥς ταῦτα ἔλεγεν, οἱ διώκοντες αὐτὸν ἐπελθόντες καὶ συλλαβόμενοι εἷς τινα συκάμινον αὐτὸν ἐσταύρωσαν.³

Since the instrument of execution was a tree, this is a crucifixion and not an impalement. Although tradition dates Aesop to the sixth century BCE, the mediaeval tradition of the fables comprises three collections (recensions) “of which the oldest (*Collectio Augustana*) dates to the third cent. AD or even earlier.”⁴ Consequently, one can confidently assert that Roman crucifixion practice has influenced the transmission of this fable. Brigands were often crucified in Roman texts.

1.2 Herodotus (probably died in the 420s)

Herodotus does not say that Oroetes executed Polycrates (ca 522 B.C.E.), the tyrant of Samos, by crucifixion, but that the king executed him in an unspeakable way and then suspended him and while he was suspended thus fulfilled the vision his daughter had had (Ἀποκτείνας δέ μιν οὐκ ἄξιως ἀπηγήσιος Ὅροίτης ἀνεσταύρωσε ... Πολυκράτης δὲ ἀνακρεμάμενος ἐπετέλεε πᾶσαν τὴν ὄψιν τῆς θυγατρὸς). There are no descriptions in Herodotus of the method by which corpses were suspended.⁵ This is most probably a case of post-mortem suspension or “crucifixion.” The second verb (ἀνακρεμάμενος) does not imply that he was impaled.⁶ Zestermann reasonably asks what the purpose would be of impaling a dead body that would feel no pain and concludes that suspension is more likely in such texts.⁷ His hypothesis, however, that ἀνασταυρόω consequently means to “nail to a stake” in Herodotus does not seem capable of proof, since the primary texts

³ Aesop Fab. 157 (BiTeu I, 184 Hausrath/Hunger). Cp. L. Gibbs, *Aesop's Fables. A New Translation*, Oxford 2002, 87: “They seized the murderer and crucified him on a mulberry tree.”

⁴ Herodotus 2.134.3-4. Cf. J. S. Rusten, *Aesop* ⁴OCD, 28. N. Holzberg (*The Ancient Fable. An Introduction*, Bloomington 2002, 73, 75) discusses Codex Monacensis gr. 564 (which was kept originally in Augsburg; dates the *Collectio* to II or III C.E.). See also C. A. Zafiro-poulos, *Ethics in Aesop's Fables. The Augustana Collection*, Mn.S 216, Leiden 2001, 23-4 (the MS is from XIII C.E., dates the *Collectio* to I or II C.E.).

⁵ Herodotus 3.125.3-4. The date is from R. Thomas, Polycrates, ³OCD 1212 (who writes that he was crucified). On the text, cf. Samuelsson, *Crucifixion*, 42-3 and Hengel, *Crucifixion*, 22. In 9.78.3 the two verbs for suspension (ἀνεσταύρωσαν, ἀνασκολοπίσας) are used in a passage that describes the suspension (probably impalement) of Leonidas's head by the Persians and the hoped for suspension of Mardonius τὴν κεφαλὴν ἀνεσταύρωσαν ... Μαρδόνιον γὰρ ἀνασκολοπίσας. Cp. the suspension (probably impalement) of Leonidas's head in 7.238.1 (ἐκέλευσε ἀποταμόντας τὴν κεφαλὴν ἀνασταυρῶσαι). In 6.30.1 the same verb (ἀνεσταύρωσαν) is used for the suspension of Histaïos's headless body. Cf. Samuelsson, *Crucifixion*, 41-59 for a fine survey (perhaps a bit too skeptical) of the problem in Herodotus. See intro. § 2.1.

⁶ Cp. ἀνακρεμασθέντος in 9.122.1 where Artaŷktes is nailed to a board.

⁷ Zestermann, *Die Kreuzigung*, 344.

he uses describe the death of Artaÿktes using different verbs.⁸ Dio Chrysostom depicts Polycrates' death as a crucifixion as do the Latin writers:

... when he wished to meddle somewhat in the affairs of the people of the opposite mainland and sailed across for the purpose of getting money from Oroites, he met with no easy death,

The final phrase is probably to be translated:

but being crucified by the barbarian he was destroyed.

... βουλόμενον δέ τι καὶ τῶν πέραν πολυπραγμονεῖν, διαπλεύσαντα πρὸς Ὀροίτην, ὡς χρήματα λάβοι, μηδὲ ῥαδίου γε θανάτου τυχεῖν, ἀλλὰ ἀνασκολοπισθέντα ὑπὸ τοῦ βαρβάρου διαφθαῖναι.⁹

Since explicit impalement is rare in Roman texts, it is likely that Dio Chrysostom envisions this execution as a crucifixion.

Artaÿktes, at the end of the Persian conflict in 479, suffered a brutal death by suspension.¹⁰ After the successful siege of Sestus by Xanthippus, the Greeks executed Artaÿktes by nailing him to boards and suspending him. They stoned his son to death before his eyes (<πρὸς> *σανίδα*ς *προσπασσαλεύσαντες ἀνεκρέμασαν*· τὸν δὲ παῖδα ἐν ὀφθαλμοῖσι τοῦ Ἀρταΰκτεω κατέλευσαν).¹¹ The details in the narrative show that the father was alive while his son was killed (and so not impaled). This implies that Herodotus's use of the same verb (*ἀνακρεμάμενος*) for Polycrates is not impalement (as does the use of *ἀνεσταύρωσε* in the narrative of Sandoces below).

In Herodotus's narrative, fifteen Persian ships of Xerxes' fleet sighted the Greek ships off the coast of Artemisium (480 B.C.E.):

Their captain was the viceroy from Cyme in Aeolia, Sandoces son of Thamasius. This man, who was one of the king's judges, had once before been taken and crucified by Darius because he had given unjust judgment for a bribe. When Sandoces had been hung

⁸ Zestermann, *Die Kreuzigung*, 344, with regard to 3.125.3-4 and 9.78.3. 9.120.4: *προσπασσαλεύσαντες* and 7.33 *διεπασσάλευσαν* (ibid., 343).

⁹ Dio Chrysostom 17.15. Trans. of Dio Chrysostom, vol. 1-5, LCL, ed. and trans. J. W. Cohoon/H. L. Crosby, Cambridge, MA/London 1932-51, 2.201, (trans. of the last phrase is mine). Cp. Philo's, Lucian's, Celsus's, and Chariton's use of the verb for crucifixion. Zenobius Sophista (era of Hadrian) *Epitome collectionum Lucilli Tarrhae et Didymi Centuria* 6.15 (*Corpus paroemiographum graecorum* I, 166,5 von Leutsch/Schneidwin) has Ὀροίτης γὰρ αὐτὸν ὁ Πέρσης ἐσταύρωσεν (Oroites the Persian crucified him). Choricus the rhetor also refers to the crucifixion, *ἀνεσταυρώθη* (Opus 17.2.78 [Foerster/Richtsteig]). Strabo 14.1.16 affirms that the Persian satrap suspended/crucified him (ὑπὸ τοῦ σατράπου τῶν Περσῶν κρεμασθήναι). Cf. chapt. 1 § 1.6 (Cic. Fin 5.92), 2.5, 2.24.

¹⁰ Herodotus 9.120.4.

¹¹ 9.120.4. Herodotus calls him the "suspended one" (*ἀνακρεμασθέντος*) in 9.122.1. Cp. 7.33 Ἀθηναῖοι Ἀρταΰκτην ἄνδρα Πέρσην λαβόντες Σηστοῦ ὑπαρχον ζῶοντα πρὸς σανίδα διεπασσάλευσαν where Herodotus emphasizes that Artaÿktes was alive when the Athenians nailed him to the board.

[suspended] on the cross [or pole], Darius found on consideration that his good services to the royal house outweighed his offenses. The king then perceived that he had acted with more haste than wisdom and set Sandoces free. Thus he escaped with his life from being put to death by Darius.

Τῶν ἐστρατήγειε ὁ ἀπὸ Κύμης τῆς Αἰολίδος ὑπαρχος Σανδῶκης ὁ Θαμασίου, τὸν δὴ πρότερον τούτων βασιλεὺς Δαρεῖος ἐπ’ αἰτίῃ τοιγῆδε λαβὼν ἀνεσταύρωσε, ἔόντα τῶν βασιλῆων δικαστέων· ὁ Σανδῶκης ἐπὶ χρήμασι ἄδικον δίκην ἐδίκησε. Ἀνακρεμασθέντος ὦν αὐτοῦ, λογιζόμενος ὁ Δαρεῖος εὖρέ οἱ πλέω ἀγαθὰ τῶν ἀμαρτημάτων πεποιημένα ἐς οἶκον τὸν βασιλῆιον· εὐρὼν δὲ τοῦτο ὁ Δαρεῖος καὶ γνοὺς ὡς ταχύτερα αὐτὸς ἢ σοφότερα ἐργασμένος εἶη, ἔλυσε. Βασιλέα μὲν δὴ Δαρεῖον οὕτω διαφυγῶν μὴ ἀπολέσθαι περιῆν.¹²

This is clearly a crucifixion and not an impalement since Sandoces survived and since Darius had the original intention to execute him.¹³ Consequently, Herodotus’s use of ἀνεσταύρωσε does not refer to an impalement, which would have induced an immediate death.¹⁴ This encourages the translator to consider “suspend” or “crucify” as a translation for the other usages of the verb in Herodotus where the suspension of bodies (living or dead) is the context (and not the suspension/impalement of disembodied heads [cf. intro. § 2.1]). It is a suspension (like Roman crucifixion) that was designed to induce death. Samuelsson points out that Herodotus uses ἀνασκολοπίζω for some kind of death by suspension.¹⁵ It is clear historically that the Persians did practice impalement (see, e.g., the Behistun stone [chapt. 4 § 1]), but there

¹² Herodotus 7.194.1-3. Trans. of Herodotus, vol. 1-4, LCL, ed and trans. A. D. Godley, Cambridge, MA/London 1921-4, 3.511. Cf. J. F. Lazenby, Artemisium, Battle of ³OCD, 184.

¹³ Samuelsson, Crucifixion, 44 does not recognize the clear intention of Darius. It is not just some vague kind of torture but a death Sandoces barely escaped. Blinzler, Der Prozess, 263 believes the Persians invented crucifixion. The evidence seems weak, but if Herodotus is correct in his depiction of Sandoces’ punishment, then Blinzler may be right.

¹⁴ Cf. Zestermann, Die Kreuzigung, 342 for comments on this text. The use of the verb has clear implications for the nature of the suspension of Polycrates above.

¹⁵ Samuelsson, Crucifixion, 44. The texts in question are: 1.128.2 Astyages suspended the dream interpreters of the Magi τούτους ἀνεσκολόπισε; 3.132.2 Darius intended to suspend Egyptian physicians who could not heal him μέλλοντας ἀνασκολοπιεῖσθαι; Darius (3.159.1) crucified (impaled?) 3000 Babylonians ὁ Δαρεῖος τῶν ἀνδρῶν τοὺς κορυφαίους μάλιστα ἐς τρισχιλίους ἀνεσκολόπισε; 4.43.2 the rapist Sataspes was on the verge of being crucified (or impaled) by Xerxes μέλλοντος αὐτοῦ διὰ ταύτην τὴν αἰτίην ἀνασκολοπιεῖσθαι; Sataspes, after failing in a mission that was a reprieve, was impaled/crucified by Xerxes ἀνεσκολόπισε; 4.202.1 Pheretima, the warrior queen, impaled/crucified the Barceans for murdering her son around the wall of the city, cut off the breasts of their women and stuck them on the wall with these [i.e. the men] ἀνεσκολόπισε κύκλῳ τοῦ τείχεος, τῶν δὲ σφι γυναικῶν τοὺς μαζοὺς ἀποταμοῦσα περιέστειξε καὶ τοῦτοισι τὸ τεῖχος; Aristotle also describes the cruelty of Pheretima λαβοῦσα δὲ τὴν Βάρκην τοὺς μὲν ἄνδρας ἀνεσκολόπισε, τῶν δὲ γυναικῶν τοὺς μαστοὺς ἐξέτεμε (περὶ πολιτειῶν, frag. 611.16 [BiTeu 375,4-5 Rose]), cf. D. L. Gera, Warrior Women. The Anonymous Tractatus de mulieribus, Leiden 1996, 164-78 on Pheretima.

are no explicit accounts of such executions in Herodotus using ἀνασταυρόω. In the case of ἀνασκολοπίζω, however, the uses in Herodotus may refer to impalement since from other sources it is clear that the Persians used that penalty.

1.3 Thucydides (born between 460-455)

Thucydides describes the possible crucifixion (or suspension) of the rebellious Inaros who had led a successful revolt in Memphis against the Persians in 463-2.¹⁶

Inaros the Libyan king who had brought about all these things, was captured by betrayal and crucified/suspended.

Ἰνάρωος δὲ ὁ Λιβύων βασιλεύς, ὃς τὰ πάντα ἔπραξε περὶ τῆς Αἰγύπτου, προδοσίᾳ ληφθεὶς ἀνεσταυρώθη.¹⁷

Ctesias depicts his death as a suspension on three stakes or beams (ἀνεσταυρίσεν μὲν ἐπὶ τρισὶ σταυροῖς).¹⁸ A helpful option for interpreting Ctesias's text is the use of the image of Andromeda exposed on a *patibulum* which is supported by two stakes. Another Greek image shows her attached to three vertical stakes (her left and right arms are bound to the outer stakes). Halm-Tisserant believes Inaros was exposed in the same manner, according to Ctesias.¹⁹ In that case Inaros would be suspended on the equivalent structure. In Plutarch, Parysatis "put the eunuch [Masabates] in the hands of the executioners, who were ordered to flay him alive, to set up [fasten] his body slantwise on three stakes, and to nail up his skin to a fourth."²⁰ This is not impalement but exposition on stakes, as in the images of Andromeda cited above.

1.4 Ctesias (late V B.C.E.)

A number of fragments of Ctesias mention what appear to be crucifixions. The legendary king of India, Stabrobates, threatens Semiramis that after de-

¹⁶ The revolt was early in the reign of Artaxerxes I, and Inaros was taken after the defeat of an Athenian "relief force" in 454. Cf. J. D. Ray, *Egypt 525-404 B.C.*, ²CAH IV, 254-86, esp. 276.

¹⁷ Thucydides 1.110.3.

¹⁸ FGrH 3C 688 Frag. 14.39 = Photius Bibl. 72.40B (Amestris, mother of Artaxerxes I, was responsible).

¹⁹ Cf. intro. § 3.3 and figure 3. See Halm-Tisserant, *Realités*, Pl. 21, E 76 and 77 (both images) and the discussion on 179-80. Cf. the exposure in Ps. Ptolemy Tetr. 4.9.13 (§ 7.3 below).

²⁰ Plutarch Art. 17.7 = FGrH 3C 688 Frag. 26 (Ctesias), trans. of Perrin, Plutarch, *Lives* XI, 167 ἐγχειρίσασα τοῖς ἐπὶ τῶν τιμωριῶν προσέταξεν ἐκδεῖραι ζῶντα, καὶ τὸ μὲν σῶμα πλάγιον διὰ τριῶν σταυρῶν ἀναπῆξαι, τὸ δὲ δέρμα χωρὶς διαπατταλεῦσαι. Masabates had cut off the head and right hand of Cyrus the Younger.

feating her he would nail her to a cross (ἡπείλει καταπολεμήσας αὐτὴν σταυρῶι προσηλώσειν).²¹ The emphasis on nails implies a crucifixion or exposition scene and not an impalement. Ninus was said to have crucified a king of Media.²² Amutis, daughter of Cyrus, crucified or suspended a eunuch (Petesacas) after putting his eyes out and flaying him (ἡ δὲ τοὺς ὀφθαλμοὺς ἐξορύξασα καὶ τὸ δέρμα περιδείρασα ἀνεσταύρισεν).²³ Amestris, mother of Artaxerxes I, has the man crucified or suspended who murdered Zopyrus, her grandson (Ἀμῆστρις δὲ ἡ μάμμη τὸν Καύνιον ἀνεσταύρισεν).²⁴ The mother of Cyrus II, Parysatis, had the eunuch (Bagapates) flayed while he was still alive and crucified because he had cut off Cyrus's head and hand by order of Artaxerxes (καὶ ὃν τρόπον τὸ δέρμα περιαιρειθεὶς ἀνεσταυρώθη ὑπὸ Παρυσάτιος).²⁵ One need not claim that these were historical crucifixions. The authors from the Roman era, however, such as Diodorus Siculus and Plutarch who are the sources of some of the traditions, probably envisioned the executions as crucifixion since that was a Roman penalty and was apparently far more frequent than impalement – given the extreme rarity of Latin texts that explicitly describe an impalement.

1.5 Demosthenes (384-322)

Demosthenes accuses Meidias of trying to ruin him, in a speech that was never delivered. Meidias had slapped him at the Dionysia of 348.

... he thought himself bound to leave no stone unturned, as if it were only right that when any man, having been insulted by him, claimed redress and refused to keep silence, he should be removed by banishment without a chance of escape, should even find himself convicted of desertion, should defend himself on a capital charge, and should be in imminent danger of being nailed.

... οὐδὲν ἐλλείπειν ᾗετο δεῖν, ὥς δέον, εἴ τις ὑβρισθεὶς ὑπὸ τούτου δίκης ἀξιοῖ τυχεῖν καὶ μὴ σιωπᾶ, τοῦτον ἐξόριστον ἀνηρῶσθαι καὶ μηδαμῇ παρεθῆναι, ἀλλὰ καὶ λιποταξίου γραφὴν ἐαλωκέναι καὶ ἐφ' αἵματι φεύγειν καὶ μόνονοῦ προσηλωθῆναι.²⁶

The scholiast conceives of the punishment as crucifixion:

²¹ FGrH 3C 688 Frag. 1B.500-1 = Diodorus Siculus 2.18.1.

²² FGrH 3C 688 Frag. 1B.30-1 = Diodorus Siculus 2.1.10 (ἀνεσταυρώθη). Cf. § 1.12 below. On exposition, cf. Halm-Tisserant, *Realités*, 162-3.

²³ FGrH 3C 688 Frag. 9.6 = Photius Bibl. 72.36B.

²⁴ FGrH 3C 688 Frag. 14.45 = Photius Bibl. 72.41B The executed man's name was Alcides.

²⁵ FGrH 3C 688 Frag. 16.66 = Photius Bibl. 72.44A.

²⁶ Demosthenes Mid. 105. Trans. of Demosthenes, vol. 1-7, LCL, ed. and trans. J. H. Vince et al., Cambridge, MA/London 1926-49, 3.75. Cf. G. L. Cawkwell, *Demosthenes*, ³OCD, 456-8, esp. 456.

And defend against a capital charge] to be judged as a murderer. And “without a chance of escape” means “to be allowed to live, but to be subject to all kinds of accusations.” “And to be in imminent danger of being nailed,” means “to be delivered to nails and crucifixion”; that is, on the one hand to a conviction of desertion and on the other hand on a conviction for murder.

καὶ ἐφ’ αἵματι φεύγειν] ὥς φονέα κρίνεσθαι. τὸ δὲ ‘μηδαμῇ παρεθῆναι’ ἀντὶ τοῦ ‘ζῆν συγχωρηθῆναι, ἀλλὰ πάσας ὑποστῆναι κατηγορίας’. καὶ μονονοῦ προσηλωθῆναι, τοῖς ἥλοις παραδίδοσθαι καὶ ἐσταυρωθῆναι, τουτέστι ἐντεῦθεν μὲν τῷ λειποταξίῳ, ἐτέρωθι δὲ τῇ τοῦ φόνου γραφῇ.²⁷

This punishment may not be crucifixion but instead one similar to that suffered by Artayktes at the end of the Persian conflict in 479. Artayktes was nailed to a board.²⁸ This is similar to an execution reported by Douris of Samos. Plutarch preserves the tradition:

But he does not appear to speak the truth when he indeed claims that [Pericles] had the Samian trierarchs and marines brought into the market-place of Miletus and shackled to boards [or beams], and when they had already suffered horribly for ten days, he commanded that they be executed by shattering their heads with clubs and that their bodies be cast out unburied.

ἀλλ’ οὐδ’ ἀληθεύειν ἔοικεν, ὥς ἄρα τοὺς τριηράρχους καὶ τοὺς ἐπιβάτας τῶν Σαμίων εἰς τὴν Μιλησίῳ ἀγορὰν καταγαγὼν καὶ στανίσι προσδήσας ἐφ’ ἡμέρας δέκα κακῶς ἤδη διακειμένους προσέταξεν ἀνελεῖν, ξύλοις τὰς κεφαλὰς συγκόψαντας, εἶτα προβαλεῖν ἀκήδευτα τὰ σώματα.²⁹

The two archaeological discoveries from Phalerum and Delos discussed in the introduction (§ 2.3) offer a partial confirmation of the tradition. In Demosthenes’ text, the proposed execution is by nailing (some sort of exposure) and not by exposure and clubs as in Plutarch’s narrative.

1.6 Callisthenes (d. 327 B.C.E.)

Legendary traditions remain concerning of Aristotle’s death. Hermippus, a follower of Callisthenes in III B.C.E., “reveled in sensationalism.”³⁰

²⁷ Scholia in Demosthenem 21.370 (BiTeu, 208 Dilts). On these scholia, cf. E. Dickey, *Ancient Greek Scholarship. A Guide to Finding, Reading, and Understanding Scholia, Commentaries, Lexica, and Grammatical Treatises, from their Beginnings to the Byzantine Period*, Oxford 2007, 51-2. Ulpian of Emesa (IV C.E.?; cf. Suda O § 911-12) perhaps is responsible for the scholium.

²⁸ Herodotus 9.120.4. Cf. § 1.2 above and Halm-Tisserant, *Realités*, 158-73 on exposition.

²⁹ Plutarch *Per.* 282 = FGrH 76 F 67. See a discussion of the tradition and its reliability in Diodorus Siculus, Books 11-12.37.1. Greek History 480-431 B.C. The Alternative Version, trans. with intro. and comm. by P. Green, Austin, TX 2006, 220. Green notes that the Athenians were protecting the Milesian democracy from “Samian oligarchs.”

³⁰ R. W. Sharples, *Hermippus* (2) (RE 6), ³OCD, 692.

Hermippus in his *About Aristotle* II says that he died in bonds; others say that after being tortured by the king he was crucified, as prescribed, others like Callisthenes say that he suffered to the utmost for not agreeing to join in a plot with Philip.

Ἑρμιππος γ(άρ) ἐν τῷ Περὶ Ἀριστοτέλους Β ἐν τοῖς δεσμοῖς φησὶν αὐτὸν τελευτῆσαι· οἱ δ' ὑπὸ βασιλέως βασά/νισθέντα / ἀ(να)σταυρωθῆναι, καθ' ἅπερ προέχ/κεται· οἱ δ(ὲ) αὐτὸν ἔ[σχ]ατ[α] παθεῖν / [τῶ]ν Φιλίππῳ συνεγνωσ(ν)ων [ὁμ]ολο[γ]ή/σαντα, καθ' ἅπερ ὁ Καλλιθένης[τις].³¹

Since the author of the text, Didymus, lived in I B.C.E. in Alexandria, he probably referred to crucifixion as one of the possible ways Aristotle died.³²

1.7 Theopompus (died ca 320)

Theopompus relates the death of Hermeias, tyrant of Atarneia (ca 355 B.C.E.) at the hand of the Persians: “after enduring many outrages to his body he was crucified and died ([πολ]λὰς τῷ σώματι λύμ(ας) π(αρ)υπομείνας ἀνα[σταυρω]θὲς τὸν βί[ον] ἐτελε[ύ]τησεν).³³ Didymus transmits this text, and his context in first century (B.C.E.) Alexandria probably indicates that he conceived of the death as a crucifixion. Strabo says that he was “suspended,” which normally implies crucifixion (ἀκχεῖ κρεμασθεὶς ἀπώλετο).³⁴

1.8 Septuagint

In 1 Esdras, Darius threatens those who do not cooperate in Zerubbabel's temple project with suspension or crucifixion:

And he commanded that if someone should disobey any of the things that had been said or written or should attempt to nullify them that a beam should be taken from his property and that he should be suspended on it and his possessions become those of the king.

καὶ προσέταξεν ἵνα ὅσοι ἐὰν παραβῶσιν τι τῶν προειρημένων καὶ τῶν προσγεγραμμένων ἢ καὶ ἀκυρώσωσιν, λημφθῆναι ξύλον ἐκ τῶν ἰδίων αὐτοῦ καὶ ἐπὶ τούτου κρεμασθῆναι καὶ τὰ ὑπάρχοντα αὐτοῦ εἶναι βασιλικά.³⁵

It is difficult to determine whether impalement or crucifixion is the intention of the text, given the Persian context, but the verb better describes crucifixion than impalement. The fact that there are not any explicit impalements of

³¹ Didymus In Demosthenem (P. Berol. 9780) col. 6,51-7 = FGrH 2B 124 frag. 3.

³² Cf. J. F. Lockwood, R. Browning, and N. G. Wilson, Didymus (1), ³OCD, 467-8.

³³ Didymus In Demosthenem (P. Berol. 9780) col. 5,19-20 = FGrH 2B 115, frag. 291. D. E. W. Wormell, Hermias (1) ³OCD, 691.

³⁴ Stabo 13.1.57. Ov. Ib. 319 writes that he was sent to Persia “sewn in a bull hide” (*in-sutus pelle iuveni*). Cf. intro. § 2.2 on the verb used for suspension.

³⁵ 1 Esd 6:31 LXX. On suspension in the ancient Near East, cf. Chapman, *Ancient Jewish and Christian Perceptions*, 99-101 and chapt. 4 § 1 below. 2 Esd 6:11 LXX, however, has καθαιρεθήσεται ξύλον ἐκ τῆς οἰκίας αὐτοῦ καὶ ὠρθωμένος παγῆσεται ἐπ' αὐτοῦ (a beam shall be taken from his house and he shall be set up upright and fixed on it).

a living body using *κρεμάω* or *κρεμόνυμι* does, however, imply that “suspend” or “crucify” are better translations than “impale.” The similar verbal use in Deut 21:22-3 LXX, which refers to a post-mortem suspension, is probably not an impalement:

Whenever any individual's guilty act results in a capital penalty, and he is put to death, you will suspend him on a tree. His body will not stay over night on the tree, but you shall bury him that day, because everyone who is suspended on a tree has been cursed by God.

Ἐὰν δὲ γένηται ἔν τινι ἁμαρτία κρίμα θανάτου καὶ ἀποθάνῃ καὶ κρεμάσῃτε αὐτὸν ἐπὶ ξύλου, οὐκ ἐπικουμῇσεται τὸ σῶμα αὐτοῦ ἐπὶ τοῦ ξύλου, ἀλλὰ ταφῇ θάψετε αὐτὸν ἐν τῇ ἡμέρᾳ ἐκείνῃ, ὅτι κεκατηραμένος ὑπὸ θεοῦ πᾶς κρεμάμενος ἐπὶ ξύλου.

The suspension in Josh 8:29 LXX probably is post-mortem (cp. 8:24): And he suspended the king of Ai on a forked tree, and he was on the tree until the evening (καὶ τὸν βασιλέα τῆς Γαι ἐκρέμασεν ἐπὶ ξύλου διδύμου, καὶ ἦν ἐπὶ τοῦ ξύλου ἕως ἑσπέρας). The “forked tree” indicates that it is not an impalement, and it may be compared with the punishment by *furca* in the Joshua codex.³⁶ This text shows that the verb (ἐκρέμασεν) is better interpreted as “suspend” in the LXX, rather than “impale.”

Another ambiguous text is Esth 2:23 ο' (LXX)³⁷ concerning the punishments of the two eunuchs who plotted against the king: The king examined the two eunuchs and suspended them (ὁ δὲ βασιλεὺς ἤτασεν τοὺς δύο εὐνούχους καὶ ἐκρέμασεν αὐτούς). This is probably an example of crucifixion. The same is true of the 50 cubit high beam on which Haman's friends told him to suspend Mordecai after asking the king's permission (Κοπήτω σοι ξύλον πηγῶν πεντήκοντα, ὄρθρου δὲ εἰπὼν τῷ βασιλεῖ καὶ κρεμασθήτω Μαρδοχαῖος ἐπὶ τοῦ ξύλου).³⁸ Impaling an individual on

³⁶ Cf. § 10.4 below and intro. § 3.5. The scene depicts the punishment by *furca* of the five Amorite Kings (Josh 10:26 καὶ ἀπέκτεινεν αὐτοὺς Ἰησοῦς καὶ ἐκρέμασεν αὐτοὺς ἐπὶ πέντε ξύλων, καὶ ἦσαν κρεμάμενοι ἐπὶ τῶν ξύλων ἕως ἑσπέρας [and Joshua executed them and suspended them on five trees, and they remained suspended on the trees until the evening]). However, in Joshua it is a post-mortem suspension.

³⁷ This is the text identified as ο' by Hanhart (Esther, Septuaginta VIII/3, ed. R. Hanhart, Göttingen 1966, 7) and B (or LXX) by other scholars (cf. Chapman, *Ancient Jewish and Christian Perceptions*, 163). The tradition identified as L by Hanhart (Esther, 15: MSS 19, 93, 108, 319) is sometimes called A. On the L tradition, cf. E. Tov, *The 'Lucianic' Text of the Canonical and Apocryphal Sections of Esther: A Rewritten Biblical Book*, *The Greek and Hebrew Bible. Collected Essays on the Septuagint*, VT.S 99, Leiden 1999, 535-48 (the L tradition is a rewriting of ο'). C. Dorothy (The Books of Esther. Structure, Genre and Textual Integrity, JSOTS 187, Sheffield 1997, 335-60 [conclusion]) argues that the L tradition is older than ο'.

³⁸ Esth 5:14 ο'. Cp. 6:4 where Haman requests that the king “suspend” Mordecai on a beam (ὁ δὲ Ἀμαν εἰσηλθὼν εἰπὼν τῷ βασιλεῖ κρεμάσαι τὸν Μαρδοχαῖον ἐπὶ τῷ ξύλῳ, ᾧ ἠτοίμασεν) and 8:7 where the king tells Esther that he has suspended Haman on a

such a high beam would be impractical. Esth 7:9-10 ο' probably depicts a crucifixion:

Bugathan, one of the eunuchs, said to the king, "Behold Haman prepared a beam for Mordecai who spoke concerning the king, and it has been raised 50 cubits high on Haman's property. And the king said, "let him be crucified on it. And Haman was suspended on the beam, which he had prepared for Mordecai and then the king's anger was appeased.

(7:9.) εἶπεν δὲ Βουγαθὰν εἰς τῶν εὐνούχων πρὸς τὸν βασιλέα Ἰδοὺ καὶ ξύλον ἡτοίμασεν Ἀμαν Μαρδοχαίῳ τῷ λαλήσαντι περὶ τοῦ βασιλέως, καὶ ὥρθεται ἐν τοῖς Ἀμαν ξύλον πηχῶν πεντήκοντα. εἶπεν δὲ ὁ βασιλεὺς Σταυρωθήτω ἐπ' αὐτοῦ. (10.) καὶ ἐκρεμάσθη Ἀμαν ἐπὶ τοῦ ξύλου, ὃ ἡτοίμασεν Μαρδοχαίῳ. καὶ τότε ὁ βασιλεὺς ἐκόπασεν τοῦ θυμοῦ.³⁹

The king's letter, which he sends to all 127 provinces, includes this description of Haman's fate and that of his family:

You will therefore do well not to pay attention to the documents sent by Haman son of Hammadetha, because he who set these events in motion has been crucified before the gates of Susa along with his family ...

E17 καλῶς οὖν ποιήσετε μὴ προσχρησάμενοι τοῖς ὑπὸ Ἀμαν Ἀμαδαθου ἀποσταλεῖσι γράμμασιν E18 διὰ τὸ αὐτὸν τὸν ταῦτα ἐξεργασάμενον πρὸς ταῖς Σούων πύλαις ἐσταυρωθῆναι σὺν τῇ πανοικίᾳ ...⁴⁰

It is interesting that Haman, in this tradition, is crucified outside the city. The king's records specify Haman's intention to suspend Mordecai with the result that instead he was suspended along with his sons (καὶ ὥς εἰσῆλθεν πρὸς τὸν βασιλέα λέγων κρεμάσαι τὸν Μαρδοχαῖον· ὅσα δὲ ἐπεχείρησεν ἐπάξαι ἐπὶ τοὺς Ἰουδαίους κακὰ, ἐπ' αὐτὸν ἐγένοντο, καὶ ἐκρεμάσθη αὐτὸς καὶ τὰ τέκνα αὐτοῦ).⁴¹

In the L tradition of the Greek text of Esther Haman has to bestow clothing and a horse on Mordecai:

And Haman took the robe and the horse, showing respect to Mordecai, as on that day he had decided to crucify (or suspend) him.

καὶ ἔλαβεν Ἀμαν τὴν στολὴν καὶ τὸν ἵππον ἐντρεπόμενος τὸν Μαρδοχαῖον, καθότι ἐκείνῃ τῇ ἡμέρᾳ ἐκεκρίκει ἀνασκολοπίσαι αὐτόν⁴²

beam (αὐτὸν ἐκρέμασα ἐπὶ ξύλου). Haman's ten sons suffer the same fate (9:13 τοὺς δέκα υἱοὺς κρεμάσαι Ἀμαν) post-mortem (cf. 9:6-10). 9:14 describes the post-mortem suspension of the corpses: ἐξέθηκε τοῖς Ἰουδαίοις τῆς πόλεως τὰ σώματα τῶν υἱῶν Ἀμαν κρεμάσαι.

³⁹ J. Stockbauer, *Kunstgeschichte des Kreuzes*, Schaffhausen 1870, 9 argues that this is a crucifixion. Esth 7:10 Vulg. has *suspensus est itaque Aman in patibulo* (Haman was suspended on a cross). Cf. chapt. 5 § 1.4.2 on the equivalence of *crux* and *patibulum* in the Vulgate. See also Gen 40:19 κρεμάσει σε ἐπὶ ξύλου (the suspension of a headless body).

⁴⁰ Esth E17-18 ο'.

⁴¹ Esth 9:25 ο'.

⁴² Esth 6:14(11) L.

The L tradition frequently uses forms of *κρεμάω* to describe the executions (or intended executions) in Esther.⁴³ In one example, a servant of the king recommends:

And Agathas, one of his servants said, Behold a beam of fifty cubits in his courtyard, which Haman cut in order that he might suspend Mordecai who spoke good things concerning the king; command therefore, lord, that he be suspended on it. And the king said, "Let him be suspended on it."

7:12(9) καὶ εἶπεν Αγαθας εἰς τῶν παίδων αὐτοῦ Ἰδοῦ ξύλον ἐν τῇ αὐλῇ αὐτοῦ πενήκοντα, ὃ ἔκοψεν Ἀμαν ἵνα κρεμάσῃ Μαρδοχαῖον τὸν λαλήσαντα ἀγαθὰ περὶ τοῦ βασιλέως· κέλευσον οὖν, κύριε, ἐπ' αὐτῷ αὐτὸν κρεμασθῆναι. 13 καὶ εἶπεν ὁ βασιλεὺς Κρεμασθήτω ἐπ' αὐτῷ.⁴⁴

In the king's letter to the provinces, the L tradition also uses the phrase of Esth E18 ο', *πρὸς ταῖς Σούσων πύλαις ἐσταυρώσθαι* (has been crucified before the gates of Susa), although it does not include Haman's family (*σὺν τῇ πανουκίᾳ*) in the description.⁴⁵

The punishment mentioned in Lam 5:12 LXX, *ἄρχοντες ἐν χερσὶν αὐτῶν ἐκρεμάσθησαν* may imply a form of punishment similar to crucifixion (they were suspended by their hands). The expression could refer to the hands of the enemies, however. The use of the verb in Joshua (*ἐκρέμασεν*) is not for impalement, and so the texts in Esther are probably similar descriptions of suspension. The LXX was translated during the Roman era (after the Second Punic War) and so probably does not refer to executions by impalement but to crucifixion in 1 Esdras and Esther.

1.9 Hellenica (P.Oxy. 5.842: First half of IV B.C.E.)

The Oxyrhynchus historian depicts some Cypriot mercenaries who were captured after a mutiny in Caunus against Conon in 395. Their leader was a Carpasian:

⁴³ Esth 5:23 (5:14 ο') L *κρέμασον αὐτὸν ἐπὶ τοῦ ξύλου* (suspend him on the beam); 6:7L *Ἀμαν δὲ ὥρθρῳ λαλήσει τῷ βασιλεῖ, ἵνα κρεμάσῃ τὸν Μαρδοχαῖον* (Haman got up early in the morning in order to speak to the king, so that he might suspend Mordecai); 7:14L *Μαρδοχαῖον ἐβουλεύσατο κρεμάσαι τὸν σφάσαντά με ἐκ χειρὸς τῶν εὐνούχων*; ([and the king said to Esther], did he plan on suspending Mordecai, the one who saved me from the hand of the eunuchs?); 7:21 *ἐν δὲ Σούσοις ἀνθρωπολογήσατο ὁ βασιλεὺς τῇ βασιλίσσῃ ἀποκτανθῆναι ἄνδρας καὶ εἶπεν Ἰδοὺ δίδωμί σοι τοῦ κρεμάσαι* (In Susa the king agreed with the queen that men should be killed and he said, behold I give [them] to you that you might suspend [them]); 7(8):37 L *ἐγὼ δὲ ὁ Μαρδοχαῖος μηνῶ ὑμῖν τὸν ταῦτα ἐργασάμενον πρὸς ταῖς Σούσων πύλαις κερκεμάσθαι καὶ τὸν οἶκον αὐτοῦ διακεχειρίσθαι* (I, Mordecai, announce to you that the one who set these deeds in motion has been suspended before the gates of Susa and that his house has been seized).

⁴⁴ Esth 7:12 (7:9 ο')-13 L.

⁴⁵ Esth 7:28 (E18 ο') L.

... he arrested the Carpasian and sixty of the other Cypriots; he killed them and crucified their general.

συ|νέ|λα|βε τῶν Κυπρίων τόν τε Καρ/πασέ|α καὶ τῶν ἄλ|λων ἐξήχοντα τοὺς μὲν ἀπέκτειν|ε, τὸν δὲ στρα|τηγὸν / ἀνεσταύρωσεν.⁴⁶

Another form of suspension is a possibility here.⁴⁷ Perhaps a Greek form of exposure was used similar to that of the victims in Phalerum – a form of death witnessed by Greek authors such as Herodotus, Diodorus Siculus, and Plutarch.⁴⁸ In addition, there are no impalements of living individuals using the verb that include obvious semantic clues (intro. § 2.1).

1.10 Polybius (ca 200 – ca 118 B.C.E.)

Polybius depicts a likely crucifixion scene during the Mercenary war (ca 237).⁴⁹

Their next step was to take Spendius and the other prisoners up to the walls and crucify them there in the sight of all. Mathos noticed that Hannibal was guilty of negligence and over-confidence, and attacking his camp, put many Carthaginians to the sword and drove them all out of the camp. All the baggage fell into the rebels' hands and they made Hannibal himself prisoner. Taking him at once to Spendius' cross they tortured him cruelly there, and then, taking Spendius down from the cross, they crucified Hannibal alive on it and slew round the body of Spendius thirty Carthaginians of the highest rank.

μετὰ δὲ ταῦτα προσαγαγόντες πρὸς τὰ τεῖχη τοὺς περὶ τὸν Σπένδιον αἰχμαλώτους ἐσταύρωσαν ἐπιφανῶς. οἱ δὲ περὶ τὸν Μάθω κατανοήσαντες τὸν Ἀννίβαν ῥαθυμῶς καὶ κατατεθαροχότως ἀναστρεφόμενον, ἐπιθέμενοι τῷ χάρακι πολλοὺς μὲν τῶν Καρχηδονίων ἀπέκτειναν, πάντας δ' ἐξέβαλον ἐκ τῆς στρατοπεδείας, ἐκυρίευσαν δὲ καὶ τῆς ἀποσκευῆς ἀπάσης, ἔλαβον δὲ καὶ τὸν στρατηγὸν Ἀννίβαν ζωγρίᾳ. τοῦτον μὲν οὖν παραχρῆμα πρὸς τὸν τοῦ Σπενδίου σταυρὸν ἀγαγόντες καὶ τιμωρησάμενοι πικρῶς ἐκείνον μὲν καθεῖλον, τοῦτον δ' ἀνέθεσαν ζῶντα καὶ περικατέσφαξαν τριάκοντα τῶν Καρχηδονίων τοὺς ἐπιφανεστάτους περὶ τὸ τοῦ Σπενδίου σῶμα ...⁵⁰

This description (“that one they removed, this one they placed on [the cross]” ἐκείνον μὲν καθεῖλον, τοῦτον δ' ἀνέθεσαν) is not the language of im-

⁴⁶ Cf. P. J. Rhodes, *A History of the Classical Greek World, 478-323 BC*, Oxford et al. 2010, 244. I take the date from K. Meister, *Oxyrhynchus*, the historian from ⁴ OCD 1059. Text: *Hellenica*, FGrH 2A 66 frag. 1.15.5 (436-9) = P.Oxy. 5.842. col. 19,20-22 (p. 187) = 20(15).5 (*Hellenica Oxyrhynchia*, ed., trans. and comm. by P. R. McKechnie & S. J. Kern, Warminster, Wiltshire 1988, 102,628-30). Trans. of B. P. Grenfell and A. S. Hunt (POxy 5, p. 235). Cp D. A. March, *Konon and the Great King's Fleet, 396-395*, *Historia* 46 (1997) 257-269, esp. 257 who dates the events to 395 B.C.E and cp. *ibid.*, 265 on the mutiny.

⁴⁷ Samuelsson, *Crucifixion*, 88-9.

⁴⁸ Cf. intro. § 2.3.

⁴⁹ H. H. Scullard, *Carthage and Rome*, ² CAH VII/2, 486-569, esp. 568.

⁵⁰ Polybius 1.86.4-6 = Diodorus 25.5.2. Polybius, *The Histories*, vol. 1-6. LCL, ed. and trans. W. R. Paton 1922-27, 1.233.

palement (e.g., σκόλοπι πήξεις [intro. § 2.1]). Diodorus specifically notes that Hannibal was nailed to the cross.⁵¹ Polybius probably mentions crucifixions a number of times. Given the use of *stauros* in texts such as those of Diodorus (see § 1.12 below) and Lucian, it is a fair assumption that Polybius refers to crucifixion and not impalement.⁵² Polybius is an author of the Roman era and likely understands such executions from a Roman perspective (in which crucifixion was dominant).

1.11 Amyzon

An inscription from Amyzon in Caria (II B.C.E.) describes, in elegiac meter, a master named Demetrius son of Pankrates who went to Hades because his slave had killed him in his sleep and then burned his house. The citizens of the community crucified the slave and left him for the beasts:

but the one who did such things to me my fellow citizens
suspended alive for the wild beasts and birds.

ἀλλὰ πολῖται ἐμοὶ τὸν ἐμὲ ῥέξαντα τοιαῦτα
θηροὶ καὶ οἰωνοὶς ζῶν ἀνεκρέμασαν.⁵³

⁵¹ Diodorus 25.5.2 (§ 1.12 below).

⁵² Polybius 1.11.5 Καρχηδόνιοι δὲ τὸν μὲν στρατηγὸν αὐτῶν ἀνεσταύρωσαν (the commander of the Messene citadel crucified by his own people, the Carthaginians); 1.24.6 παραυτίκα συλληφθεὶς ὑπὸ τῶν διασωθέντων Καρχηδονίων ἀνεσταυρώθη (Hannibal crucified because he lost ships, ca 258 during the First Punic War, cf. Scullard, Carthage, 553); 1.79.4 Hanno (not Hanno the Great) crucified by mutineers in Sardinia παραυτίκα τοῦτον μὲν ἀνεσταύρωσαν. On this Hanno (executed around 240), cf. B. D. Hoyos, *Truceless War. Carthage's Fight for Survival 241-237 B.C.*, Leiden 2007, 157-8. 5.54.6 (ca 220) τὸ μὲν σῶμα τοῦ Μόλωνος ἀνασταυρῶσαι προσέταξε κατὰ τὸν ἐπιφανέστατον τόπον τῆς Μηδίας (he [Antiochus III] ordered that the body of Molon should be suspended in the most visible place of Media). 8.21.3: in 213 the rebel (and self proclaimed king) Achaeus was captured, his extremities were cut off and afterward his head was sown in a sack made of ass's skin and his body crucified/suspended by Antiochus III ... μετὰ δὲ ταῦτα τὴν κεφαλὴν ἀποτεμόντας αὐτοῦ καὶ καταρράψαντας εἰς ὄνειον ἄσκον ἀνασταυρῶσαι τὸ σῶμα. Cf. B. A. van Proosdij, *De morte Achaei*, *Hermes* 69 (1934) 347-50, and G. M. A. Hanfmann, *The Crucified Donkey Man: Achaios and Jesus*, in: *Studies in Classical Art and Archaeology. A Tribute to Peter Heinrich von Blanckenhagen*, ed. G. Kopcke and M. B. Moore, Locust Valley, NY 1979, 205-7. Cp. the Palatine graffito (figure 10). Samuelsson, *Crucifixion*, 75-6 argues that the text (8.21.3) is ambiguous. No use of the verb, however, describes an explicit impalement of a corpse. Ovid (*Ib.* 299-300) depicts Achaeus's death as due to suspension: *more vel intereas capti suspensus Achaei*, / *qui miser aurifera teste pependit aqua* (or may you die in the manner of the suspended Achaeus who, miserable man, hung with the gold bearing water [the Pactolus] as witness).

⁵³ (From Cook, *Crucifixion and Burial*, 206 n. 61): J. and L. Robert, *Fouilles d'Amyzon en Carie I. Exploration, histoire, monnaies et inscriptions*, Paris 1983, 259-263, S. R. Llewellyn, *New Documents Illustrating Early Christianity. A Review of the Greek Inscriptions and Papyri Published 1984-1985*, vol. 8, Grand Rapids, MI/Cambridge 1998, 1-3 (his trans.,

The episode may be related to the revolt of Aristonicus.⁵⁴ Whether the area was under Roman influence or not, crucifixion was the usual form of punishment for slaves during the Roman era and is almost certainly the intention of this text. The slave is meant to die a lingering death.

1.12 Diodorus Siculus (1 B.C.E.)

Diodorus may have completed his *Bibliothēke* (Library) in Egypt in 30 B.C.E.⁵⁵ He mentions a number of texts that probably refer to crucifixions.⁵⁶

slightly modified). Llewelyn (ibid., 3) shows that it is unclear whether the area was under Roman influence or free at the time of the inscription. Hengel, *Crucifixion*, 9 quotes an image of the crucified as οἰωνῶν κατάδειπνα, κυνῶν θ' ἐλκυσματά δεινά (evil food for birds of prey and grim pickings for dogs) from Ps. Manetho *Apotelesmatica* 4.200.

⁵⁴ P. Dubois, *Out of Athens. The New Ancient Greeks*, Cambridge, MA 2010, 116. J. Hopp finds no justification for the hypothesis: *Untersuchungen zur Geschichte der letzten Attaliden*, Munich 1977, 136. See the narrative of the rebellion in Plutarch *Flam.* 21.6.

⁵⁵ K. S. Sacks, *Diodorus* (3), ³OCD 472-3.

⁵⁶ Diodorus 2.1.10 = Ctesias *FGrH* 3C 688 Frag. 1B: the king of the Medes crucified by the king of the Assyrians, Ninus (αὐτὸς μετὰ τέκνων ἑπτὰ καὶ γυναικὸς αἰχμάλωτος ληφθεὶς ἀνεσταυρώθη); 2.44.2 Cyrus king of Persia, in D.'s account, was crucified by the Scythian queen, Scythia (τὸν Κῦρον αἰχμάλωτον γενόμενον ἀνεσταύρωσε); 3.65.5 Dionysius put out Lycurgus's eyes, tortured him, and then crucified him for killing Maenads (τὸν Λυκούργον ζωργήσαντα τυφλώσαι τε καὶ πάσαν αἰκίαν εἰσενεγκάμενον ἀνασταυρῶσαι); 13.111.4 in Dionysius of Syracuse's war with Carthage (402-399, cf. B. M. Caven, *Dionysius I*, ³OCD, 476-7), the Carthaginians sometimes crucified prisoners (οὓς μὲν ἀνεσταύρουσιν); Dionysius (14.53.4) after subduing Motyans (ca 397), crucified the leader and the Greeks who had fought with the Carthaginians (Δαῖμένην δὲ καὶ τινὰς τῶν Ἑλλήνων συμμαχοῦντας Καρχηδονίοις λαβὼν αἰχμαλώτους ἀνεσταύρωσεν); 16.61.3 Onomarchus, in a battle with Philip II, was apparently crucified (Ὀνόμαρχος ... ἐσταυρώθη) cp. C. J. Tuplin, *Onomarchus*, ³OCD, 1068 (his corpse was crucified, ca 353) and 16.35.6 ὁ δὲ Φίλιππος τὸν μὲν Ὀνόμαρχον ἐκρέμασε (Philip "suspended" Onomarchus, which may imply "crucifixion"); 16.61.2 Onomarchus was wounded (or cut in pieces) and crucified (Ὀνόμαρχος ... κατακοπεὶς ἐσταυρώθη); 17.46.4 Alexander crucified the captive Tyrians (τοὺς δὲ νέους πάντας, ὄντας οὐκ ἐλάττους τῶν δισχιλίων, ἐκρέμασε); 18.16.3 Perdicas tortured and crucified Ariarathes I, ruler of Cappadocia and his kinsmen [court] (τοῦτον μὲν οὖν καὶ τοὺς συγγενεῖς αὐτοῦ πάντας αἰκισάμενος ἀνεσταύρωσε); 19.67.2 Polyperchon's daughter in law, "Cratesipolis," arrested (ca 314) and crucified thirty of the rebellious Sicyonians after she defeated the town (συλλαβοῦσα δὲ περὶ τριάκοντα τὸν ἀριθμὸν ἀνεσταύρωσεν); 20.69.5 the Carthaginians crucified some of the leading soldiers Agathocles had abandoned in Libya (οἱ Καρχηδόνιοι τοὺς μὲν ἡγεμόνας ἀνεσταύρωσαν); Demetrius I (20.103.6) crucified Strombichus (303) and 80 of his soldiers before the walls of Orchomenus (Στρόμβιχον ... καὶ τῶν ἄλλων τῶν ἄλλοτριῶς διατεθέντων πρὸς αὐτὸν εἰς ὀδοήκοντα πρὸ τῆς πόλεως ἀνεσταύρωσε); 25.10.2 Hamilcar put out the eyes of the Celtiberian Indortes, tortured him, and crucified him or perhaps suspended his body (ὃν τυφλώσας Ἀμίλκας καὶ τὸ σῶμα αἰκισάμενος ἀνεσταύρωσε); 26.23.1 the Carthaginians crucified Numidian captives, the Micatani, after the Mercenary war (πάντας τοὺς συλληφθέντας ἀνεσταύρωσαν) and their descendants remember the cruelty (ὀμότητος ἀναμνησκόμενοι); 34-35.12.1

As a Roman of I B.C.E. he would have been familiar with the usual cross-shaped instrument of execution (intro. § 2.1). This is confirmed by the text quoted above from Ctesias in which the king of India threatens to nail Semiramis to a cross (ἡπείλει καταπολεμήσας αὐτὴν σταυρῷ προσηλώσειν).⁵⁷ A “post” is an insufficient translation there. Another text that indicates a cross is not just a post for Diodorus is his description of the siege of Utica by Agathocles in 308.⁵⁸ He “suspended” prisoners on the siege engine he had constructed (συνεπήγνυε μηχανὴν καὶ κρεμάσας ἐπ’ αὐτῇ τοὺς αἰχμαλώτους).⁵⁹ The defenders hesitated to use their weapons because the prisoners were still alive (20.54.5). They had to surrender or kill their fellow citizens:

And this, indeed, is what took place; for as they resisted the enemy and employed missiles of every kind, they shot down some of the men who were stationed on the engine, and they also mangled some of their fellow citizens who were hanging [or “suspended”] there, and others they nailed to the engine with the bolts at whatever places on the body the missiles chanced to strike, so that the wanton violence and the punishment almost amounted to crucifixion [a cross, *stauros*].

ὅπερ καὶ συνέβη γενέσθαι· ἀμυνόμενοι γὰρ τοὺς πολεμίους καὶ παντοίοις βέλεσι χρώμενοι καὶ τὰ τῶν ἐφεστηκότων τῇ μηχανῇ σώματα κατηρίσαντο καὶ τινὰς μὲν τῶν κρεμασμένων πολιτῶν κατηκόντισαν, τινὰς δὲ τοῖς δξύβελέσι πρὸς τῇ μηχανῇ προσκαθίλωσαν καθ’ οὓς ποτε τύχοι τοῦ σώματος τόπους, ὥστε σταυρῷ παραπλησίαν εἶναι τὴν ὕβριν ἅμα καὶ τὴν τιμωρίαν.⁶⁰

The emphasis on nails indicates that a post-shape is not the likely meaning of *stauros* here. It also indicates that Diodorus had a stable concept of crucifixion (i.e., being attached to a *stauros* with nails or some other kind of object). The incident from the Mercenary war alluded to above (§ 1.10) also comprises crucifixions in Diodorus.

Hamilcar crucified Spondius. But when Matho took Hannibal prisoner, he nailed him to the same cross.

Ὅτι τὸν Σπόνδιον ἀνεσταύρωσεν Ἀμίλκας. ὁ δὲ Μάθως Ἀννίβαν εἰς τὸν αὐτὸν σταυρὸν αἰχμάλωτον λαβὼν προσήλωσεν ...⁶¹

Zibelmus son of Diegylis, ruler of Thracia, for trifling reasons cut some of his own subjects in pieces, crucified others and burned others alive (τοὺς μὲν διεμέλιξε, τοὺς δὲ ἀνεσταύρου, τοὺς δὲ καὶ ζῶντας ἐνεπύριξε). Diegylis was killed around 145 B.C.E. Cf. C. Habicht, *The Seleucids and their Rivals*, ²CAH VIII, 324-87, esp. 375.

⁵⁷ Diodorus 2.18.1 = Ctesias FGrH 3C 688 Frag. 1B.500-1. Cf. § 1.4 above.

⁵⁸ B. H. Warmington, R. J. A. Wilson, *Utica*, ³OCD, 1575.

⁵⁹ Diodorus 20.54.2. Agathocles (20.55.2) suspended/crucified captive Uticans (τοὺς δ’ ἀλόντας ἐκρέμασε).

⁶⁰ Diodorus 20.54.7. Trans. of Diodorus of Sicily, vol.1-12, LCL, ed and trans. C. H. Oldfather et al., Cambridge, MA/London 1933-67, 10.293.

⁶¹ Diodorus 25.5. 2= Polybius 1.86.4-6 above. Trans. of Oldfather, Diodorus, 11.149.

The nails here also imply that there was probably a horizontal piece. It is also clear that Diodorus uses the verb (ἀνεσταύρωσεν) to mean “crucify,” since it is equivalent to “nail to a cross” in the passage. The conclusion is warranted that Diodorus uses ἀνασταυρώω in other texts to express crucifixion (using nails or something similar). He adopts another suspension word with regard to the Gauls who keep their criminals for five years before execution: “for their criminals they keep prisoner for five years and then crucify them in honor of the gods” (τοὺς γὰρ κακούργους κατὰ πενταετηρίδα φυλάξαντες ἀνασκολοπίζουσι τοῖς θεοῖς).⁶² Given the use of the verb during Diodorus’s time (cf. Philo), “crucify” is probably the correct translation. Another verb (Curtius: *crucibus adfixi*) that refers to crucifixion is used by Diodorus in his description of Alexander’s actions after the siege of Tyre:

The king sold the women and children into slavery and crucified all the men of military age.

ὁ δὲ βασιλεὺς τέκνα μὲν καὶ γυναικάς ἐξηνδραποδίσατο, τοὺς δὲ νέους πάντας, ὄντας οὐκ ἐλάττους τῶν δισχιλίων, ἐκρέμασε.⁶³

One need not argue for the historical truth of the narrative, but since Diodorus is a Roman author he probably envisioned these executions as crucifixions. His mention of nails in the texts above implies that the suspensions in his texts are crucifixions and not impalements.

2 Imperium

2.1 Strabo (born ca 64 B.C.E., dead after 21 C.E.)

Strabo describes the city where the *grammatikos* Daphitas was crucified:

And the city [Magnesia on the Maeander] lies in the plain near the mountain called Thorax, on which Daphitas the grammarian is said to have been crucified, because he reviled the kings in a distich: “Purpled with stripes, mere filings of the treasure of Lysimachus, ye rule the Lydians and Phrygia.” It is said that an oracle was given out that Daphitas should be on his guard against Thorax.

κεῖται δ’ ἐν πεδίῳ πρὸς ὄρει καλουμένῳ Θώρακι ἡ πόλις, ἐφ’ ᾧ σταυρωθῆναι φασὶ Δαφίταν τὸν γραμματικὸν λοιδορήσαντα τοὺς βασιλέας διὰ διστίχου “πορφύρεοι μώλωπες, ἀπορρινήματα γάζης Λυσιμάχου, Λυδῶν ἄρχετε καὶ Φρυγίης.” καὶ λόγιον δ’ ἐκπεσεῖν αὐτῷ λέγεται φυλάττεσθαι τὸν Θώρακα.⁶⁴

⁶² Diodorus 5.32.6, trans. of Oldfather, Diodorus, 3.183.

⁶³ Diodorus 17.46.4, trans. of Oldfather, Diodorus, 8.251. Curtius 4.4.17 *II milia ... crucibus adfixi* (2000 crucified; cf. chapt. 1 § 2.19). Blinzler, *Der Prozess*, 262 thinks Alexander used crucifixion, although he does not think it was used in Greece itself.

⁶⁴ Strabo 14.1.39. Trans. of the *Geography of Strabo*, vol. 1-8, LCL, ed. and trans. H. R. Jones and J. R. S. Sterrett, Cambridge, MA/London 1917-32, 6.249.

Given Strabo's Roman context and his description of the crucifixion of the Cantabrians, crucifixion is clearly the envisioned penalty.⁶⁵ Page Dubois believes the king in question is Attalus II who later willed Pergamon to the Romans.⁶⁶

2.2 *Dionysius Halicarnassus (reign of Augustus)*

Slaves attempted to set fire to Rome in numerous places, according to what is probably a legendary tradition of Dionysius (ca 500/499 B.C.E.):

And straightway all those whom the informers declared to have been concerned in the conspiracy were either seized in their houses or brought in from the country, and after being scourged and tortured they were all crucified.

καὶ αὐτίκα οἱ μὲν ἐκ τῶν οἰκιῶν συλληφθέντες, οἱ δ' ἐκ τῶν ἀγρῶν ἀναχθέντες, ὅσους ἀπέφαινον οἱ μηνυταὶ μετασχεῖν τῆς συνωμοσίας, μάλιστα καὶ βασάνοις αἰκισθέντες ἀνεσκολοπίσθησαν ἅπαντες.⁶⁷

Dionysius recounts a slave revolt in 419/18 B.C.E. The leaders were crucified:

When the plot was revealed, the ringleaders were arrested and after being scourged were led away to be crucified [to crosses]

τῆς δὲ πράξεως περιφανοῦς γενομένης συλληφθέντες οἱ πρωτοὶ συνθέντες τὴν ἐπιβουλὴν καὶ μαστιγωθέντες ἐπὶ τοὺς σταυροὺς ἀπήχθησαν.⁶⁸

Neither account is likely to be an example of historical crucifixions, but both probably reflect later Roman practice (in which textually explicit impalements are extremely rare) – including scourging and torture before crucifixion.⁶⁹

2.3 *Philo Judaeus (1 C.E.)*

Besides Philo's references to the crucifixions carried out by Flaccus, he creates a number of metaphors using crucifixion language.⁷⁰ Souls that love the body must call the body "brother":

... and all [souls] that are in this state are suspended from inanimate things, and like those who are crucified they are nailed to perishable materials until their death.⁷¹

⁶⁵ Cf. Strabo's account of crucifixion in chapt. 2 § 3.1.1 where individuals sing while fixed on their crosses (ἀναπεπηγότες ἐπὶ τῶν σταυρῶν).

⁶⁶ Dubois, *Out of Athens*, 116.

⁶⁷ Dionysius Halicarnassus 5.51.3. Trans. of *The Roman Antiquities of Dionysius Halicarnassus*, vol. 1-7, LCL, ed. and trans. E. Cary, Cambridge, MA/London 1937-1950, 3.153.

⁶⁸ Dionysius Halicarnassus 12.6.6. Trans. of Cary, *Roman Antiquities*, 7.221.

⁶⁹ Cf. chapt. 2 § 1 on the question of historicity.

⁷⁰ Cf. chapt. 2 § 3.3.2.

⁷¹ Philo Post. 61. My trans. done with Colson, Philo, 2.361.

ὅσαι δὲ τοῦτον διάκεινται τὸν τρόπον, ἀψύχων ἐκκρέμανται καὶ καθάπερ οἱ ἀνασκολοπισθέντες ἄχρι θανάτου φθαρταῖς ὕλαις προσήλωνται.⁷²

Philo clearly has Roman practice in mind here since the “crucified” individuals are nailed and suspended until they die. In an interpretation of Gen 40:17, Philo affirms that those who love pleasure and passion will be foiled by God:

Thus the mind stripped of the creations of its art⁷³ will be found as it were a headless corpse, with severed neck nailed like the crucified to the tree of helpless and poverty-stricken indiscipline.

περισυληθεις οὖν ὁ νοῦς ὧν ἐδημιούργησεν, ὥσπερ τὸν ἀρχένα ἀποτμηθεὶς ἀκέφαλος καὶ νεκρὸς ἀνευρεθήσεται, προσηλωμένος ὥσπερ οἱ ἀνασκολοπισθέντες τῷ ξύλῳ τῆς ἀπόρου καὶ πενιχρᾶς ἀπαιδευσίας.⁷⁴

Whether the suspension was pre or post-mortem in Philo’s metaphor is difficult to decide. The nails in this text show that ἀνασκολοπιζῶ does not mean “impale” in Philo. In another interpretation of Gen 40:16-7, Philo writes that the three baskets are a symbol of three days. “After waiting for these to pass, the king will command that you be crucified and that your head be cut off ...” (ἐπισχὼν ταύτας ὁ βασιλεὺς ἀνασκολοπισθήναι σε καὶ τὴν κεφαλὴν ἀποτμηθῆναι κελεύσει ...).⁷⁵ In a passage that follows, Philo reverses the order of the action: “he commanded that after beheading him, he be crucified” (προστάξας τὸν μὲν ἀνασκολοπισθῆναι τὴν κεφαλὴν ἀποτμηθέντα).⁷⁶ In both texts the death is by beheading and not crucifixion. Philo could use a different verb to describe the suspension of the baker:

⁷² Cp. Plato Phaedo 83D (“Ὅτι ἐκάστη ἡδονὴ καὶ λύπη ὥσπερ ἥλον ἔχουσα προσηλοῖ αὐτὴν πρὸς τὸ σῶμα [each pleasure and pain like a nail, nails the soul to the body]), Plutarch Quaest. conv. 718D ὁ γὰρ ἡδονῆς καὶ ἀλγηδόνης ἥλος, ὃ πρὸς τὸ σῶμα τὴν ψυχὴν προσηλοῖ (the nail of pleasure and pain, by which the soul is nailed to the body). Iamblichus apud Stob. 3.5.45 moderation dishonors the pleasures that nail the soul to the body (ἄτε δὴ τὰς προσηλούσας τῷ σώματι τὴν ψυχὴν ἡδονὰς ἀτιμάζουσας). The image appears frequently in Iamblichus De vita Pyth. 32.228 τῶν προσηλούντων τῷ σώματι τὴν ψυχὴν παθημάτων; Protr. 69 ἐκάστη ἡδονὴ καὶ λύπη ὥσπερ ἥλον ἔχουσα προσηλοῖ αὐτὴν πρὸς τὸ σῶμα; De myst. 2.6 παθὼν πληροῖ προσηλούντων τοὺς θεωροῦντας τοῖς σώμασιν ([the process of other souls being led into becoming] fills those who behold it with passions that nail them to their bodies). Cf. Hengel, Crucifixion, 67. In Julian Or. XI (On Helios) 10, 136B (CUFr II/2, 108 Lacombrade), Helios does not punish and cause sorrow by nailing souls again to bodies after their deliverance from the cycle of birth (οὐχὶ δὲ λυθείσας αὐτὰς σώμασιν ἑτέροις προσηλοῖ κολλάζων).

⁷³ These arts are for the enjoyment of pleasure.

⁷⁴ Philo Somn. 2.213, trans. of Colson, Philo, 5.539.

⁷⁵ Philo Ios. 96. In Prov. 2.24 he uses another verb (be nailed) to describe crucifixion: πρόσθε δ’ ὡς ὑπὸ μεγάλου βασιλέως ἐκολάζετο, καὶ προσηλοῦτο, χρησμὸν ἐκπιπλάς (consider how he was punished by the great king and was nailed, fulfilling an oracle).

⁷⁶ Philo Ios. 98.

For death follows the scarcity of food; and the one who did wrong in these matters appropriately dies by being suspended, suffering the same evil that he arranged [for others], because he suspended and tortured the starved man with hunger.

τελευτή γὰρ ἔπεται σιτίων σπάνει· ὁ περὶ ταῦτ' ἐξαμαρτῶν εἰκότως θνήσκει κρεμασθεὶς, ὅμοιον κακὸν ᾧ διέθηκε παθῶν καὶ γὰρ αὐτὸς ἀνεκρέμασε καὶ παρέτεινε τὸν πεινῶντα λιμῶ.⁷⁷

It is clear that in this hypothetical case “suspension” is death by crucifixion and not impalement since the suspended individual suffers hunger while dying. Philo’s use of the verb ἀνασκολοπιζῶ in Somn. 2.213 shows that he conceived of crucifixion as a process and not immediate death by impalement.⁷⁸ In Deut. 21:22-3 it is clear that post-mortem suspension is the intention. Philo’s interpretation below, however, does not mention any other form of execution but crucifixion. He considers it possible that the lawgiver could have ordained myriad forms of execution for crimes.

But since this was impossible he ordained another penalty as an addition, and ordered the manslayers to be crucified. Yet after giving this injunction he hastened to revert to his natural humanity and shews mercy to those whose deeds were merciless when he says “Let not the sun go down upon the crucified but let them be buried in the earth before sundown.”

ἐπεὶ δὲ τοῦτ' οὐκ ἐνεδέχετο, τιμωρίαν ἄλλην προσδιατάσσεται κελεύων τοὺς ἀνελόντας ἀνασκολοπιζέσθαι. καὶ τοῦτο προστάξας ἀνατρέχει πάλιν ἐπὶ τὴν αὐτοῦ φιλανθρωπίαν, ἡμερούμενος πρὸς τοὺς ἀνήμερα εἰργασμένους, καὶ φησὶ· μὴ ἐπιδυέτω ὁ ἥλιος ἀνεσκολοπισμένοις, ἀλλ' ἐπικρυπτέσθωσαν γῇ πρὸ δύσεως καθαιρεθέντες.⁷⁹

In a transformation of Deuteronomy, probably influenced by Roman practice, Philo interprets the Septuagint to mean death by crucifixion.

2.4 Flavius Josephus (born 37/38)

Josephus makes frequent mention of crucifixion. His usage of the word group (σταυρός and cognate verb forms) indicates that he normally thought the word referred to crucifixion.⁸⁰ Joseph tells the baker that he will be crucified in three days, become food for birds and would be unable to defend himself (τῇ τρίτῃ δ' αὐτὸν ἀνασταυρωθέντα βορὰν ἔσεσθαι πετεινοῖς οὐδὲν ἄμύνειν αὐτῷ δυνάμενον).⁸¹ This is a probable transformation of the sus-

⁷⁷ Philo Ios. 156, my trans. done with ref. to Colson, Philo, 6.215-7.

⁷⁸ Cf. Somn. 2.213 above. This implies Flaccus’s executions (Flacc. 84-5) were crucifixions (see the text in chapt. 2 § 3.3.2).

⁷⁹ Philo Spec. 3.151-2. Trans. of Colson, Philo, 7.571.

⁸⁰ See his texts in chapt. 2 § 3.4.2, 3.4.3, 3.5.1, 3.5.5, etc.

⁸¹ Josephus A.J. 2.73. The king crucifies him in 2.73 τὸν μὲν ἐπὶ τῶν σιτοποιῶν ἀνεσταύρωσε. The butler (2.77) recounts the accuracy of the crucifixion according to Jo-

pension in Gen 40:19 LXX, since “not being able to defend oneself” implies that the death was not by beheading. The verb can mean “impale” when disembodied heads are the reference, but it is the context that makes that clear. The Philistines attached (“crucified”) the beheaded corpses of Saul and those of his sons to the walls of Bethsan (Beth-Shan): τὰ δὲ σώματα ἀνεσταύρωσαν πρὸς τὰ τεῖχη τῆς Βηθσάν πόλεως ...⁸² In Cyrus’s letter to the satraps of Persia he threatens anyone who is disobedient to or annuls its provisions with crucifixion: τοὺς δὲ παρακούσαντας τούτων καὶ ἀκυρώσαντας ἀνασταυρωθῆναι ...⁸³ In Josephus’s version of Esther, Artaxerxes crucifies the two eunuchs who had plotted against his life (τοὺς μὲν εὐνούχους ἀνεσταύρωσεν).⁸⁴ Josephus uses the same language to describe Haman’s intended execution of Mordecai on a tree sixty cubits high: a crucifixion in Josephus’s version of the story (παρὰ τοῦ βασιλέως αἰτησάμενον ἀνασταυρῶσαι τὸν Μαρδοχαῖον).⁸⁵ He later calls the instrument of execution a “cross” or “post” set up in Haman’s house (ιδὼν τὸν σταυρὸν ἐν τῇ Ἀμάνου οἰκίᾳ πεπηγότα).⁸⁶ The king orders Haman to be executed by suspension on the same cross/post (καὶ κελεύει παραχρῆμα αὐτὸν ἐξ ἐκείνου τοῦ σταυροῦ κρεμασθέντα ἀποθανεῖν).⁸⁷ He gives a vivid picture of Antiochus IV’s persecution:

Indeed, they were whipped, their bodies were mutilated, and while still alive and breathing, they were crucified, while their wives and the sons whom they had circumcised in despite of the king’s wishes were strangled, the children being made to hang from the necks of their crucified parents.

καὶ γὰρ μαστιγούμενοι καὶ τὰ σώματα λυμαινόμενοι ζῶντες ἔτι καὶ ἐμπνέοντες ἀνεσταυροῦντο, τὰς δὲ γυναῖκας καὶ τοὺς παῖδας αὐτῶν, οὓς περιέτεμνον

seph’s dream interpretation to the king: ὅτι τε σταυρωθείη κατὰ τὴν αὐτὴν ἡμέραν ὁ ἐπὶ τῶν διτοποιῶν ...

⁸²Josephus A.J. 6.374. Cp. 1 Sam 31:10 LXX τὸ σῶμα αὐτοῦ κατέπηξαν ἐν τῷ τείχει Βαιθσαν. (they attached his body to the wall of Beth-Shan).

⁸³Josephus A.J. 11.17. Cp. 11.103, another reference to Cyrus’s letter threatening crucifixion for those who transgress its provisions: τοὺς δὲ παραβάντας τι τῶν ἐπεσταλμένων συλληφθέντας ἐκέλευσεν ἀνασταυρωθῆναι ...

⁸⁴Josephus A.J. 11.208. In Esth. 2:23 ο’ the king “suspended” them ἐκρέμασεν αὐτούς, which may imply a crucifixion. Cf. § 1.8 above.

⁸⁵Josephus A.J. 11.246.

⁸⁶Josephus A.J. 11.261. Cp. 11.266 σταυρὸν ἐπὶ τῆς οἰκίας αὐτοῦ παρεσκευασμένον ἐπὶ Μαρδοχαῖον; *ibid.* τὸν σταυρὸν ... ἐξήκοντα πήχεων τὸ ὕψος (a cross 60 cubits high); in 11.289 the Jews ask Artaxerxes for the right to crucify Haman’s ten sons (τοὺς δέκα τοὺς Ἀμάνου παῖδας ἀνασταυρῶσαι).

⁸⁷Josephus A.J. 11.267. Artaxerxes (A.J. 11.280) refers to his crucifixion of Haman and his family before the gates of Susa (τὸν ταῦτα κατ’ αὐτῶν μηχανησάμενον πρὸ τῶν πυλῶν τῶν ἐν Σούσοις ἀνεσταύρωσα μετὰ τῆς γενεᾶς).

παρὰ τὴν τοῦ βασιλέως προαίρεσιν, ἀπὴγγχον ἐκ τῶν τραχίλων αὐτοὺς τῶν ἀνασταυρωμένων γονέων ἀπαρτῶντες.⁸⁸

Some of them were crucified alive, and there is no explicit indication of post-mortem crucifixion. After Alexander Jannaeus's defeat of the Jews in the rebellion led by the Pharisees against his rule, he crucified 800 of them around 88 B.C.E.:

While he feasted with his concubines in a conspicuous place, he ordered some eight hundred of the Jews to be crucified, and slaughtered their children and wives before the eyes of the still living wretches.

ἐστιώμενος γὰρ ἐν ἀπόπτῳ μετὰ τῶν παλλακίδων ἀνασταυρῶσαι προσέταξεν αὐτῶν ὡς ὀκτακοσίους, τοὺς δὲ παῖδας αὐτῶν καὶ τὰς γυναῖκας ἔτι ζώντων παρὰ τὰς ἐκείνων ὄψεις ἀπέσφαττεν.⁸⁹

The emphasis on the executed individuals' vision of their children and wives shows that a crucifixion is the intended meaning and not impalement. The account indicates that Josephus uses the verb to express crucifixion. Josephus describes a mime on the day of Gaius's assassination:

Here there were two new portents. In the first place a mime was presented in the course of which a chieftain is caught and crucified. Moreover, the play presented by the dancer was Cinyras, in which the hero and his daughter Myrrha are killed. Thus a great quantity of artificial blood was shed, what with the crucified man and Cinyras.

ἔνθα δὲ καὶ σημεῖα μανθάνει δύο γενέσθαι· καὶ γὰρ μῖμος εἰσάγεται, καθ' ὃν σταυροῦται ληφοῖς ἡγεμών, ὃ τε ὀρχηστὴς δράμα εἰσάγει Κινύραν, ἐν ᾧ αὐτός τε ἐκτείνετο καὶ ἡ θυγάτηρ Μύρρα, αἷμά τε ἦν τεχνητὸν πολὺ καὶ περὶ τὸν σταυρωθέντα ἐκκεχυμένον καὶ τῶν περὶ τὸν Κινύραν.⁹⁰

⁸⁸ Josephus A.J. 12.256. Trans. of Josephus, *Jewish Antiquities* Books XII-XIV, vol. 7, ed. and trans. R. Marcus, Cambridge, MA/London 1933, 131-3.

⁸⁹ Josephus A.J. 13.380. Trans. of Marcus, Josephus, 7.417. Cp. the same scene in B.J. 1.97: τῶν γὰρ ληφθέντων ὀκτακοσίους ἀνασταυρώσας ἐν μέσῃ τῇ πόλει γυναῖκας τε καὶ τέκνα αὐτῶν ἀπέσφαξεν ταῖς ὄψεσι. In that text the implication is that the individuals were alive on their crosses while they watched the executions of their wives and children. For the date and summary of the event, cf. Schürer, *History*, 1.224. Alexandra (67-67 B.C.E.) later permitted the execution of Diogenes, who apparently counseled Alexander to crucify the 800 (B.J. 1.113) and cp. A.J. 13.410 where the Pharisees urge Alexandra to kill those who executed the 800. Cf. Schürer, *History*, 1.229-32 on Alexandra (Salome). Some of the 800 were probably Pharisees given Josephus's account of their later antipathy toward Alexander. See Chapman, *Ancient Jewish and Christian Perceptions*, 55-7. S. L. Berrin, *The Peshar Nahum Scroll from Qumran. An Exegetical Study of 4Q169*, STDJ 53, Leiden 2004, 91 presents additional arguments for the identification based on the pelting of Alexander with citrons in A.J. 13.372 and the same story ("a Sadducean priest") in m. Sukkah 4:9. b. Qidd. 66a is evidence of "Hasmonean lineage and persecution of Pharisees." Neither of those texts, however, proves that all of the eight hundred victims were Pharisees.

⁹⁰ Josephus A.J. 19.94. Trans. of Josephus, *Jewish Antiquities* Books XVIII-XIX, vol. 9, LCL, ed. and trans. L. H. Feldman, Cambridge, MA/London 1965, 259-61. On the robber mime, cf. chapt. 2 § 3.10. Gaius was assassinated on 24 Jan. 41.

This is a crucifixion and not an impalement, since the blood probably indicates the prolonged suffering of the robber chieftain and since an actor could survive a “crucifixion.” Josephus never uses σταυρώω or ἀνασταυρώω to refer to an explicit impalement, and in the narratives of Antiochus’s and Alexander Jannaeus’s executions it is abundantly clear that he means “crucify” when using the verbs.

During the Jewish war some Idumaeans did not bury those killed in Jerusalem:

They actually went so far in their impiety as to cast out the corpses without burial, although the Jews are so careful about funeral rites that even malefactors who have been sentenced to crucifixion are taken down and buried before sunset.

καίτοι τοσαύτην Ἰουδαίων περὶ τὰς ταφὰς πρόνοιαν ποιουμένων, ὥστε καὶ τοὺς ἐκ καταδίκης ἀνεσταυρωμένους πρὸ δύντος ἡλίου καθελεῖν τε καὶ θάπτειν.⁹¹

The text indicates that crucified individuals in Palestine were buried, at least in Josephus’s estimation.⁹² I will not include the *testimonium Flavianum* here, because the passage about Jesus in Josephus’s text has been worked over by Christian scribes. At the least one may conclude that Josephus knew of Jesus’ crucifixion.⁹³

2.5 Dio Chrysostom (ca 40/50-after 110)

Dio Chrysostom, in one of his orations, depicts a conversation between Diogenes and Alexander about the nature of kingship. It may have been addressed to Trajan.⁹⁴ If Trajan heard it, then according to a tradition in Philostratus’s *Vitae Sophistarum*, the emperor did not understand him. He once told the orator when he carried him in his golden chariot for triumphal processions in Rome, “What you are saying I do not understand, but I love you as myself” (τί μὲν λέγεις, οὐκ οἶδα, φιλῶ δέ σε ὥς ἐμαυτόν).⁹⁵

The topic is worth a somewhat extended treatment, because Vernon Robbins has made an intriguing and lengthy comparison between the “Sacian

⁹¹ Josephus B.J. 4.317, trans. of Josephus III. The Jewish War Books IV-VII, LCL, ed. and trans. H. St. J. Thackeray, Cambridge, MA/London 1928, 93.

⁹² Cf. Cook, Crucifixion and Burial, 209-13.

⁹³ Cf. chapt. 2 § 3.2.3 for some brief remarks on the text.

⁹⁴ J. Moles, The Cynics, in: The Cambridge History of Greek and Roman Political Thought, ed. C. J. Rowe and M. Schofield, Cambridge 2000, 415-434, esp. 432 and J. R. Harrison, Paul and the Imperial Authorities at Thessalonica and Rome. A Study in the Conflict of Ideology, WUNT 384, Tübingen 2011, 287 (with ref., e.g., to Or. 3.3-4, 13: probably on Trajan’s birthday [18 Sept. 104]). On the date of Trajan’s birthday, see Kienast, Römische Kaisertabelle, 122.

⁹⁵ Philostratus Vita Soph. 488 Olearius. Cf. G. W. Bowersock, Fiction as History. Nero to Julian, Sather Classical Lectures 58, Berkeley 1994, 55.

feast” described below and the Passion of Christ in the Gospel of Mark in the context of a study of the function of Psalm 22 in the Markan narrative.⁹⁶ Apparently Johann Jakob Wettstein was the first to list the text from Dio in the philological apparatus of his NT, and after a large set of references to ancient texts his comment begins, *Omnia per ludibrium* (“All is for mocking”).⁹⁷ The Cynic philosopher Diogenes tells Alexander that the good king is a “son of Zeus.” They discuss Olympias’s story that Philip is not Alexander’s biological father.⁹⁸ This is the tradition passed on by Plutarch in which Philip is told by Apollo that he would lose an eye peeking through an opening in the door while the god (Zeus Ammon), in the form of a serpent, lay with Olympias (κατώπτειυσεν ἐν μορφῇ δράκοντος συνευναζόμενον τῇ γυναικὶ τὸν θεόν).⁹⁹ Diogenes’ comment is “Well, you know it [the science of kingship]¹⁰⁰ if the words of Olympias are true and you are a son of Zeus ...” (Ἄλλ’ ἐπίστασαι αὐτήν, εἴπερ ἀληθὴς ὁ τῆς Ὀλυμπιάδος λόγος καὶ γέγονας ἐκ τοῦ Διός·).¹⁰¹ Diogenes approves of Homer’s belief that Zeus is the father not just of gods but of individuals who exhibit certain characteristics (not cowardly, addicted to luxury, or servile).¹⁰²

... for if you are temperate and courageous and know the royal craft of Zeus, nothing prevents you from being a son of Zeus.

⁹⁶ Cf. V. K. Robbins, The Reversed Contextualization of Psalm 22 in the Markan Crucifixion: A Socio-Rhetorical Analysis, in: idem, *Sea Voyages and Beyond. Emerging Strategies in Socio-Rhetorical Interpretation*, Emory Studies in Early Christianity 14, Dorset 2010, 258-81, esp. 273-9 (earlier published in: *The Four Gospels* 1992. FS Frans Neirynck, vol. 2, BETL 100, Leuven 1992, 1161-1183, esp. 1175-81). I will refer below to the more recent edition of Robbins’s essay. He gives brief bibliography on *ibid.*, 260 n. 14 (with particular ref. to H. A. Vollmer, *Jesus und das Sacaenopfer*. Religionsgeschichtliche Streiflichter, Gießen 1905 and idem, *Der König mit der Dornenkrone*, ZNW 6 [1905] 184-98). From that era cf. further P. Wendland, *Jesus als Saturnalienkönig*, Hermes 33 (1898) 175-9, H. Reich, *Der König mit der Dornenkrone*, Leipzig 1905 (reprint of *ibid.* in NJKA 7 [1904] 705-33), and J. Geffcken, *Die Verhöhnung Christi durch die Kriegsknechte*, Hermes 41 (1906) 220-29.

⁹⁷ *Novum Testamentum Graecum cum variis lectionibus et commentario duobus tomis*, ed. J. J. Wettstein, 2 vols., Amsterdam 1751-52, 1.533. Wettstein also includes other important comparative material such as Philo Flacc. 36-9.

⁹⁸ Dio Chrysostom 4.19. Cohoon/Crosby, Dio Chrysostom, 1.181.

⁹⁹ Plutarch Alex 3.2. In another tradition Olympias notes that Alexander should stop slandering her to Hera (Alex. 3.4).

¹⁰⁰ Dio Chrysostom 4.26 τῆς βασιλικῆς ἐπιστήμης.

¹⁰¹ Dio Chrysostom 4.27.

¹⁰² Dio Chrysostom 4.19 ἐὰν δὲ δειλὸς ᾖς καὶ τρυφερὸς καὶ ἀνελεύθερος, οὔτε σοὶ θεῶν οὔτε ἀνθρώπων τῶν ἀγαθῶν προσήκει (if you are cowardly and addicted to luxury and servile, you are not related to gods or good people).

ἐὰν μὲν γὰρ ᾗς σὼφρων καὶ ἀνδρεῖος καὶ τὴν τοῦ Διὸς ἐπιστάμενος τέχνην τὴν βασιλικήν, οὐθὲν σε κολύει τοῦ Διὸς εἶναι υἱόν¹⁰³

Diogenes has encouraged Alexander to trust in good deeds and justice and not in arms (εὐεργεσίᾳ πιστεύειν καὶ τῷ δίκαιον παρέχειν αὐτόν, ἀλλὰ μὴ τοῖς ὅπλοις).¹⁰⁴ Diogenes, in vain of course, attempts to call Alexander away from his military life and serve others as a slave – this immediately after Dio portrays Alexander as ready to hurl his spear at the philosopher:

With these words Diogenes strove to encourage him to put his trust in well-doing and devotion to righteousness and not in arms. “But you,” he continued, “also carry in your soul a keen-whetted temper, a goad difficult to restrain, as we see, and compelling. Will you not throw off this armour which you now wear, don a workers tunic, and serve your betters, instead of going about wearing a ridiculous diadem? And perhaps before long you will grow a comb or tiara as cocks do? Have you never heard about the Sacian feast held by the Persians, against whom you are now preparing to take the field?” And Alexander at once asked him what it was like, he wished to know all about the Persians.

ταῦτα δὲ ἔλεγεν ὁ Διογένης, προτρέπων αὐτόν εὐεργεσίᾳ πιστεύειν καὶ τῷ δίκαιον παρέχειν αὐτόν, ἀλλὰ μὴ τοῖς ὅπλοις. Σὺ δέ, ἔφη, καὶ τὸν θυμὸν ἐν τῇ ψυχῇ φορεῖς ἡκονημένον, χαλεπὸν οὕτως καὶ βίαιον κέντρον. οὐκ ἀπορρίψας ταῦτα ἃ νῦν ἔχεις, ἐξωμίδα λαβὼν λατρεύσεις τοῖς αὐτοῦ κρείττοσιν, ἀλλὰ περιελεύσῃ διάδημα ἔχων καταγέλαστον; μικρῷ δὲ ὕστερον ἴσως λόφον φύσεις καὶ τιάραν, ὥσπερ οἱ ἀλεκτρυόνες; οὐκ ἐννενόηκας τὴν τῶν Σακῶν ἑορτήν, ἣν Πέρσαι ἄγουσιν, οὗ νῦν ὄρμηκας στρατεύεσθαι; καὶ ὃς εὐθὺς ἠρώτα, Ποίαν τινά; ἐβούλετο γὰρ πάντα εἰδέναι τὰ τῶν Περσῶν πράγματα.¹⁰⁵

Diogenes seems concerned with the keen sharpened anger in Alexander's breast and encourages him to take his armor off and to put on the tunic worn by slaves and the poor (the ἐξωμῖς). He describes the Sacian feast of the Persians in which a condemned prisoner is treated in this fashion:

“Well, they take one of their prisoners,” he explained, “who has been condemned to death, set him upon the king's throne, give him the royal apparel, and permit him to give orders, to drink and carouse, and to dally with the royal concubines during those days, and no one prevents his doing anything he pleases. But after that they strip and scourge him and then suspend him.” Now what do you suppose this is meant to signify and what is the purpose of this Persian custom? Is it not intended to show that foolish and wicked men frequently acquire this royal power and title and then after a season of wanton insolence come to a most shameful and wretched end? And so, when the fellow is freed from his chains, the chances are, if he is a fool and ignorant of the significance of the procedure, that he feels glad and congratulates himself on what is taking place; but if he understands,

¹⁰³ Dio Chrysostom 4.21. Robbins, *Reversed Contextualization*, 272 also calls attention to 4.27, 31 (people of old were called children of Zeus who were courageous and whose paideia was like that of Heracles [καὶ οὕτω δὴ Διὸς παῖδας ἐκάλουν οἱ πρότερον τοὺς τῆς ἀγαθῆς παιδείας ἐπιτυγχάνοντας καὶ τὰς ψυχὰς ἀνδρείους, πεπαιδευμένους ὥς Ἡρακλέα ἐκεῖνον]).

¹⁰⁴ Dio Chrysostom 4.65.

¹⁰⁵ Dio Chrysostom Or. 4.65-67, Cohoon/Crosby, Dio Chrysostom, 1.199.

he probably breaks out into wailing and refuses to go along without protesting, but would rather remain in fetters just as he was. Therefore, O perverse man, do not attempt to be king before you have attained to wisdom. And in the meantime," he added, "it is better not to give orders to others but to live in solitude, clothed in a sheepskin."

Λαβόντες, ἔφη, τῶν δεσμοτῶν ἓνα τῶν ἐπὶ θανάτῳ καθίζουσιν εἰς τὸν θρόνον τὸν τοῦ βασιλέως, καὶ τὴν ἐσθῆτα διδόνασιν αὐτῷ τὴν βασιλικήν, καὶ προστάττειν ἑῷσι καὶ πίνειν καὶ τρυφᾶν καὶ ταῖς παλλακαῖς χρῆσθαι τὰς ἡμέρας ἐκείνας ταῖς βασιλέως, καὶ οὐδείς οὐδὲν αὐτὸν κωλύει ποιεῖν ὃν βούλεται. μετὰ δὲ ταῦτα ἀποδύσαντες καὶ μαστιγώσαντες ἐκρέμασαν. τίνος οὖν ἡγῆ τοῦτο εἶναι σύμβολον καὶ διὰ τί γίνεσθαι παρὰ τοῖς Πέρσας; οὐχ ὅτι πολλάκις ἀνόητοι ἄνθρωποι καὶ πονηροὶ τῆς ἐξουσίας ταύτης καὶ τοῦ ὀνόματος τυγχάνουσιν, ἔπειτα χρόνον τινὰ ὑβρίζαντες αἰσχίστα καὶ τάχιστα ἀπόλλυνται; οὐκοῦν τότε, ἐπειδὴν ἄρῃσι τὸν ἄνθρωπον ἐκ τῶν δεσμῶν, εἰκός ἐστι τὸν μὲν ἀνόητον καὶ ἄπειρον τοῦ πράγματος χαίρειν καὶ μακαρίζειν ἑαυτὸν ἐπὶ τοῖς γιγνομένοις, τὸν δὲ εἰδότα ὀδυρεσθαι καὶ μὴ ἐθέλειν ἐκόντα συνακολουθεῖν, ἀλλὰ μᾶλλον, ὥσπερ εἶχε, μένειν ἐν ταῖς πέδαις. μὴ οὖν πρότερον, ὃ μάταιε, βασιλεύειν ἐπιχείρει πρὶν ἢ φρονῆσαι. τέως δέ, ἔφη, κρεῖττον μὴδὲν προστάττειν, ἀλλὰ μόνον αὐτὸν ζῆν διφθέραν ἔχοντα. μὴ οὖν πρότερον, ὃ μάταιε, βασιλεύειν ἐπιχείρει πρὶν ἢ φρονῆσαι.¹⁰⁶

The punishment, in Dio's text, appears to be a crucifixion. Hanging (i.e., by a noose) is not a probable interpretation, given its absence as a Roman punishment in the imperium. The usage of the verb in Arrian, Appian and others warrants this view (§ 2.8-9). Dio is viewing the Persians through Greco-Roman eyes. The sequence of scourging and then crucifixion is normal Roman procedure. In context, therefore, the account of the Sacian feast is not a mere curiosity, but serves to point the way of true kingship to Alexander. It is not wealth or power or the other similar trappings of the office that make a good king. Diogenes, in the narrative portrayal by Dio, almost seems to wish that Alexander would become a Cynic philosopher like himself. Robbins notes that the Gospels of Matthew and Mark include the mocking of Jesus' kingship. John also includes this element of the Passion.¹⁰⁷ What is intriguing about Robbins's approach to this text and the Passion narrative in Mark is that he envelops the centurion's confession of Jesus' sonship within the surrounding Hellenistic culture of Mark and argues that the centurion's affirmation itself is on a cultural border between Judaism and Hellenism with their

¹⁰⁶ Dio Chrysostom Or. 4.67-70, trans. of Cohoon/Crosby, Dio Chrysostom, 1.199-201 ("suspend" instead of Cohoon's "hang"). Cf. Robbins, *Reversed Contextualization* 27-3 on the Markan passion narrative and the Sacian festival.

¹⁰⁷ Cf. J. Frey, *Die „theologia crucifixi“ des Johannesevangeliums*, in: *Kreuzestheologie im Neuen Testament*, ed. A. Dettwiler and J. Zumstein, Tübingen 2002, 169-238, esp. 222 with ref. to the crown of thorns and the robe in John. He approvingly quotes U. Schnelle, *Neutestamentliche Anthropologie*, BThS 18, Neikirchen-Vluyn 1991, 136, "Here the paradox of the Incarnation is concentrated to its maximum. In the foreground the appearance of Jesus is like the King of Fools, yet he is the true King!"

respective understandings of divine sonship.¹⁰⁸ Robbins does all this in conjunction with his thesis that Mark inverts the rhetoric of Ps 22 by quoting key texts from it in reverse order and by ending with Jesus' final cry of abandonment on the cross (Mark 15:39).¹⁰⁹

2.6 Plutarch (before 50 – after 120)

Plutarch is familiar with crucifixion. The following passage is part of his discussion of the wise person. Plutarch, in a reflection on such a person's resistance to the vagaries of Fortune and rejection of Vice, writes:

But will you nail him to a cross or impale him on a stake? And what does Theodorus care whether he rots above ground or beneath? Among the Scythians such is the manner of happy burial; ...

ἀλλ' εἰς σταυρὸν καθηλώσεις ἢ σκόλοπι πήξεις; καὶ τί Θεοδώρῳ μέλει, πότερον ὑπὲρ γῆς ἢ ὑπὸ γῆς σήπεται; Σκυθῶν εὐδαίμονες αὐταὶ ταφαί.¹¹⁰

Here “cross” (σταυρὸν) is clearly distinguished from the stake (σκόλοπι) used in impalement. The language probably corresponds to the difference between *crux* (cross) used for crucifixion and the *stipes* (beam) used for impalement in Seneca's texts (cp. intro. § 3.4). Fabius Maximus blocked Hannibal's retreat during the latter's descent down a mountain:

[Wanting to extricate his army from this situation], Hannibal now perceived the mistake in his position, and its peril, and crucified the native guides who were responsible for it. He wished to effect a retreat, but despaired of dislodging his enemies by direct attack from the passes of which they were masters.

¹⁰⁸ Robbins, *Reversed Contextualization*, 278-81. Robbins notes the tradition of kings who died for their country (ibid., 271 with ref. to M. Hengel, *The Atonement. The Origins of the Doctrine in the New Testament*, Philadelphia 1976, 13-14, 82 n. 47, 48 and 1 Clem 55:5-5). On Codrus's self sacrifice, cf. D. D. Hughes, *Human Sacrifice in Ancient Greece*, New York et al. 2001, 74-5. Horace Carm. 3.19.2 writes that “Codrus is not afraid to die for his country” (*Codrus, pro patria non timendus mori*).

¹⁰⁹ Robbins, *Reversed Contextualization*, 273-79.

¹¹⁰ Plutarch *An vit.* 499D = test. 11 (BiTeu *Diagorae ...*, 34,18-21 Winiarczyk). Trans. of Plutarch, *Moralia*, vol. 1-15; LCL, trans. F. C. Babbitt et al., Cambridge, MA 1927-69, 6.371. Cic. *Tusc.* 1.102 (chapt. 1 § 1.6) has a similar response of Theodorus to king Lysimachus who threatened him with crucifixion. He told him to threaten his own court officials and that he did not care whether he rotted in the air or in the ground: *cui cum Lysimachus rex crucem minaretur, 'istis, quaeso' inquit 'ista horribilia minitare purpuratis tuis: Theodori quidem nihil interest, humine an sublime putescat'*. The tyrant threatens death and lack of burial in Sen. *Dial.* 9.14.3. *Gnomologium Vaticanum* 64 (= Stobaeus *Anth.* 3.7.29) depicts a scene in which Alexander threatens Anaxarchus: Ἀνάξαρχος, ὁ φυσικὸς φιλόσοφος, Ἀλεξάνδρου τοῦ βασιλέως εἰπόντος αὐτῷ· “χαρεμῶ σε”, “ἄλλοις”, ἔφη, “ἀπειλεῖ· ἐμοὶ δὲ οὐδὲν διαφέρει ὑπὲρ γῆς ἢ κατὰ γῆς σήπεσθαι.” (Anaxarchus the philosopher of nature: When Alexander the king said to him, “I will suspend/crucify you,” he said, “threaten others, for it makes no difference to me whether I rot above the ground or below it”). Cf. Hengel, *Crucifixion*, 75.

ἐκ τούτου βουλόμενος Ἀντίβας ἀπαγαγεῖν τὸ στράτευμα, καὶ τὴν διαμαρτίαν τοῦ τόπου νοήσας καὶ τὸν κίνδυνον, ἀνεσταύρωσε μὲν τοὺς ὁδηγούς, ἐκβιάζεσθαι δὲ τοὺς πολεμίους καὶ προσμάχεσθαι τῶν ὑπερβολῶν ἐγκρατεῖς ὄντας ἀπεργίνωσκε.¹¹¹

One does not need to argue that the Carthaginians engaged in the practice of crucifixion. Plutarch, however, does imagine that they did. His use of σταυρός above indicates that for him ἀνασταυρώω refers to crucifixion and not impalement.

After Timoleon defeated the Carthaginian forces, the body of Mago was dishonored:

... after Mago killed himself, the Carthaginians suspended his body, being angry at his generalship ...

... τοὺς Καρχηδονίους τοῦ μὲν Μάγωνος ἑαυτὸν ἀνελόντος ἀνεσταυρωκένοι τὸ σῶμα, διὰ τὴν στρατηγίαν ὀργισθέντας ...¹¹²

This is clearly a post-mortem suspension. Plutarch includes the poet's Alcaeus' mockery of Philips V's loss of a battle (Cynoscephalae):

For Philip simply made fun of Alcaeus with an answering elegiac distich:–

Leafless and without bark, O traveller, on this ridge

A cross is planted for Alcaeus, and it towers in the sun;

ὁ μὲν γὰρ ἀντικωμῶδῶς τὸν Ἀλκαῖον τῷ ἐλεγείῳ, παρέβαλλεν·

Ἄφλοιος καὶ ἄφυλλος ὁδοιπόρε τῷ δ' ἐπὶ νώτῳ

Ἀλκαίῳ σταυρὸς πῆγνυται ἡλίβατος.¹¹³

Plutarch narrates Greek tradition from a Roman perspective in which crucifixion was a frequent sight. When Alexander's friend Hephaestion died, the doctor being at the theater, Alexander had the tails of horses cut off as a sign of mourning and "he also crucified the wretched physician"¹¹⁴ (τὸν δ' ἄθλιον ἱατρὸν ἀνεσταύρωσεν). Plutarch notes that Alexander crucified the philosophers in India who incited revolt against him.¹¹⁵

The Romans developed a strange custom in honor of the sacred geese who warned them of the Gauls' nocturnal attack:

Even until now a crucified dog takes part in a procession in memory of the occurrences at that time, but a goose very reverently perches on a valuable bed spread and litter.

¹¹¹ Plutarch Fab. 6.5, trans. of Plutarch's Lives, vol. 1-11, LCL, ed. and trans. B. Perrin, London/New York 1914-26, 3.137, ("Wanting to extricate his army from this situation" is missing in Perrin's trans.).

¹¹² Plutarch Tim. 22.8. my trans.

¹¹³ Plutarch Flam. 9.4, trans. of Perrin, Plutarch's Lives, 10.345-7.

¹¹⁴ Plutarch Alex. 72.3, trans. of Perrin, Plutarch's Lives, 7.425.

¹¹⁵ Plutarch Alex. 55.8 διὸ καὶ τοῦτων πολλοὺς ἐκρέμασε.

πομπεύει δὲ μέχρι νῦν ἐπὶ μνήμῃ τῶν τότε συμπτωμάτων κύων μὲν ἀνεσταυρωμένος, χῆν δὲ μάλα σεμνῶς ἐπὶ στρωμνῆς πολυτελοῦς καὶ φορείου καθήμενος.¹¹⁶

It is unclear whether the dog is crucified or suspended in another manner. Pliny, however, implies that they are nailed to a *furca* and not impaled, and Plutarch's only explicit text describing an impalement uses *σκόλοψ* (stake).¹¹⁷ He depicts the suspension of Cleomenes' corpse. Ptolemy had Cleomenes' body wrapped in a skin and suspended (*προσέταξε τὸ μὲν σῶμα τοῦ Κλεομένους κρεμάσαι καταβυρσώσαντας*).¹¹⁸

And a few days later those who were guarding the suspended [crucified] body of Cleomenes saw a huge snake coiled around his head and hiding his face so that no flesh eating bird could alight on it.

ὀλίγαις δ' ὕστερον ἡμέραις οἱ τὸ σῶμα τοῦ Κλεομένους ἀνεσταυρωμένον παραφυλάττοντες εἶδον εὐμεγέθη δράκοντα τῇ κεφαλῇ περιπεπλεγμένον καὶ ἀποκρύπτοντα τὸ πρόσωπον, ὥστε μηδὲν ὄρνεον ἐφίπτασθαι σαρκοφάγον.¹¹⁹

He makes it quite clear that this is a post-mortem suspension. Dionysius of Sicily did not appreciate humor.

For example, people were once talking in a barber's shop about how adamant and unbreakable the despotism of Dionysius was. The barber laughed and said, "Fancy your saying that about Dionysius, when I have my razor at his throat every few days or so!" When Dionysius heard this, he crucified the barber.

οἷον ἐν κουρείῳ τινὶ γινομένων λόγων περὶ τῆς Διονυσίου τυραννίδος ὡς ἀδαμαντίνη καὶ ἄρρηκτός ἐστι, γελάσας ὁ κουρεύς 'ταῦθ' ὑμᾶς' ἔφη 'περὶ Διονυσίου λέγειν, οὗ ἐγὼ παρ' ἡμέρας ὀλίγας ἐπὶ τοῦ τραχήλου τὸ ξυρὸν ἔχω.' ταῦτ' ἀκούσας ὁ Διονύσιος ἀνεσταύρωσεν αὐτόν.¹²⁰

Since Plutarch contrasts impalement (using a *skolops*) with execution by a cross (*stauros*), crucifixion is probably his intention here. Plutarch must have been aware of many criminals carrying their cross (i.e., *patibulum*) before crucifixion: "every criminal condemned to death bears his cross on his back" (καὶ τῷ μὲν σώματι τῶν κολαζομένων ἕκαστος κακουργῶν ἐκφέρει τὸν αὐτοῦ σταυρόν).¹²¹ This corresponds to the use of *patibulum* in Latin

¹¹⁶ Plutarch Fort. Rom. 12, 325D, my trans.

¹¹⁷ Plin. Nat. 29.57. Cf. other references in chapt. 1 § 3.3.

¹¹⁸ Plutarch Ag. Cleom. 59.4. Cp. Polybius 8.21.3 in which Antiochus punishes Achaëus's (his uncle and brother-in-law) rebellion in Asia Minor: "... and it was decided to lop off in the first place the unhappy prince's extremities, and then, after cutting off his head and sewing it up in an ass's skin, to crucify his body" (ἔδοξε δ' οὖν πρῶτον μὲν ἀκρωτηριάσαι τὸν ταλαίπωρον, μετὰ δὲ ταῦτα τὴν κεφαλὴν ἀποτεμόντας αὐτοῦ καὶ καταρράψαντας εἰς ὄνειον ἄσχον ἀνασταυρῶσαι τὸ σῶμα). Trans. of Paton, Polybius 3.499. See § 1.10 above.

¹¹⁹ Plutarch Ag. Cleom. 60.2, my trans.

¹²⁰ Plutarch Garr. 13, 508F-509A, trans. of Plutarch's *Moralia* 6.433-5.

¹²¹ Plutarch Sera 554A.

texts, which occasionally describe a condemned individual carrying the horizontal beam to the implanted vertical stake.¹²²

2.7 Ps. Plutarch

Ps. Plutarch tells of a tale of crucifixion during the Second Punic War.

When Hannibal was ravaging Campania, Lucius Tiberis placed his son Rustius together with his possessions in the hands of Valerius Gestius, who was his son-in-law; but Hannibal was victorious. When the Campanian heard this, through his love of money he violated the rights of nature and slew the child. But when Tiberis was journeying through the country-side and came upon the body of his son, he sent to his son-in-law, pretending that he would show him treasures; but when he came, Tiberis put out his eyes and nailed him to a cross. So Aristeides in the third book of his Italian History.

ANNIBA Καμπανούς λεηλατοῦντος Λούκιος Οὔμβριος τὸν υἱὸν Ῥούστιον μετὰ χρημάτων ἔθηκε πρὸς Οὐαλλέριον Οὐηστίνον¹²³ ὄντα γαμβρόν. ὁ δὲ νενίκηκεν. ἀκούσας δ' ὁ Καμπανὸς φιλαργυρίᾳ παρέβη τὰ δίκαια τῆς φύσεως τὸν παῖδα φονεύσας. ὁ δὲ Οὔμβριος διὰ τῆς ἀγροικίας πορευόμενος καὶ τῷ σώματι τοῦ παιδὸς ἐντυχὼν ἐπεμψεν ἐπὶ τὸν γαμβρόν ὡς δείξω θησαυροῦς· ἐλθόντα δ' ἐτύφλωσε καὶ ἐσταύρωσεν ὡς Ἀριστείδης ἐν τρίτῳ Ἰταλικῶν.¹²⁴

This text is too legendary in character to accept as an historical account.¹²⁵ In a tale about the river Hydaspes,

The inhabitants nail virgins who have behaved in an unholy way to crosses and throw them in it [the Hydaspes], chanting a hymn in their language to Aphrodite.

Οἱ δὲ ἐγχώριοι τὰς ἀσεβῶς ἀναστρεφόμενας παρθένους σταυροῖς προσηλώσαντες εἰς αὐτὸν βάλλουσιν, τῇ σφῶν διαλέκτῳ τὸν Ἀφροδίτης ὕμνον ᾄδοντες.¹²⁶

The nails indicate crucifixion and not impalement, and no text using σταυρός (*stauros*) describes an impalement with clear semantic hints. The river took its name from a king whose daughter plotted against him. When the king discovered the plot he buried the nurse alive who had conspired with his daughter, crucified his daughter and threw her into the Indus river, which was then

¹²² Intro. § 3.1-3.

¹²³ A. de Lazzer (Plutarco, *Paralleli minori*. Introduzione, testo critico, traduzione e commento, *Corpus Plutarchi moralium* 33, ed. A. de Lazzer, Naples 2000, 262-3) presents a compressed version from MSS group Σ of this tradition (itself from MSS groups ΦΠ) in which the son-in-law's name is Γέστιον.

¹²⁴ Ps. Plutarch *Par. min.* 24B 311E, trans. of Plutarch's *Moralia* 4.293 = Aristides frag. 6, FHGr. 4.321 = FGrH 3A 286, frag. 6). de Lazzer, *Plutarco, Paralleli minori*, 263 refers to a similar tale (that does not mention crucifixion) in *Scriptores rerum mirabilium graeci*, ed. A. Westerman, Braunschweig/London 1839, 221.2-222.2 (from anon. *De impiis*).

¹²⁵ On the *Parallela minora* and *De fluviis*, cf. C. J. Smith, *The Origo Gentis Romanae: Facts and Fictions*, BICS 48 (2005) 97-136, 107-9. The works are to be understood in the context of Hellenistic poetry.

¹²⁶ Ps. Plutarch *De fluviis* 1.4.

named after the king (τὴν δὲ θυγατέρα σταυρώσας διὰ λύπης ὑπερβολὴν ἔρριψεν ἑαυτὸν εἰς ποταμὸν Ἰνδὸν, ὃς ἄπ' αὐτοῦ Ὑδάσπης μετωνομάσθη).¹²⁷ Crucifixion is apparently not the intended final means of execution, but the beginning of the process of drowning in these tales. Another text of Ps. Plutarch describes Alexander's treatment of Tyrian citizens:

Ancient events: There remains now the "Of Tyre." When Alexander of Macedon came to Tyre with a large army, he was bitterly resentful – he razed the city and some of the citizens he crucified and some of them he burned. From this event the proverb is uttered concerning those who are ill disposed.

Τὰ ἐκ παλαιᾶς: λείπει ἐνθάδε τὸ 'τῆς Τύρου'. Τύρον γὰρ τὴν παλαιὰν Ἀλέξανδρος ὁ Μακεδὼν πολλῇ χειρὶ ἐπελθὼν διέθηκε τὰ χαλεπώτατα, ὥστε τὴν πόλιν κατασκάψαι, τοὺς δὲ πολίτας οὓς μὲν ἀνασκολοπίσαι, οὓς δὲ κατακαῦσαι. ἐκ τούτου γοῦν ἡ παροιμία <λέγεται> ἐπὶ τῶν κακῶς διακειμένων.¹²⁸

This is unlikely to be an impalement since that penalty appears to be fairly rare during the Roman era and since Ps. Plutarch composed the story during that era.

2.8 Lucius Flavius Arrianus (ca 86-160)

In his *Anabasis of Alexander*, one author affirmed that Alexander crucified the rebel Callisthenes.

Aristobulus affirms that Callisthenes was bound in shackles and led around with the army and then died by some disease, but Ptolemaeus of Lagos wrote that after being tortured he was crucified [suspended].

Καλλισθένην δὲ Ἀριστόβουλος μὲν λέγει δεδεμένον ἐν πέδαις ξυμπεριάγεσθαι τῇ στρατιᾷ, ἔπειτα νόσῳ τελευτῆσαι, Πτολεμαῖος δὲ ὁ Λάγου στρεβλωθέντα καὶ κρεμασθέντα ἀποθανεῖν.¹²⁹

¹²⁷ Ps. Plutarch De fluviis 1.1.

¹²⁸ Ps. Plutarch De proverbiis Alexandrinorum, frag. 4 (BiTeu 4, Crusius). A possible crucifixion of a man who plotted against Pyrrus's life is in Reg. imp. apoph. 195B τὸν μὲν ἱατρὸν ἐκρέμασε. The same verb is used by Ps. Plutarch (205F) in Caesar's threat to crucify the pirates (μετὰ γέλωτος ἡπείλει κρεμᾶν αὐτούς). Cf. intro § 2.2 and chapt. 2 § 2.8.

¹²⁹ Arrian Anab. 4.14.3. On the uses of κρεμάω for crucifixion, cf. intro. § 2.2. In agreement with this reading is A. B. Bosworth, A Historical Commentary on Arrian's History of Alexander. Commentary on Books IV-V, Oxford 1995, 100: "Crucifixion was inflicted by Alexander on rebels (6.17.2), usurpers (6.30.2) or stubbornly resistant defenders" (2.24.4 [mentions the death of the Tyrian defenders, but not the manner]; Curt. 7.11.28). Plutarch Alex. 55.9 has ὑπ' Ἀλεξάνδρου κρεμασθέντα λέγουσιν (some say that he [Callisthenes] was crucified by Alexander). Plutarch Caes. 2.4 πολλάκις ἡπείλησε κρεμᾶν αὐτούς, 2.7 τοὺς ληστὰς ἅπαντας ἀνεσταύρωσεν indicates that Caesar often warned the pirates he could suspend/crucify them (2.4), and later he crucified all the brigands (2.7). Plutarch Ag. Cleom. 59.4 προσέταξε τὸ μὲν σῶμα τοῦ Κλεομένου κρεμάσαι καταβυρσώσαντας

In another text, a ruler of Alor (on the Indus) named Musicanus revolts against Alexander. Alexander sends Peitho, the son of a satrap, to quell the revolt, and Musicanus is brought to Alexander's camp.

There, when Musicanus had been captured, he was brought by Peitho, and Alexander ordered that he be crucified [suspended] in his own land, and also the Brachmans who had been responsible for the revolt with Musicanus.

ἐνθα δὴ Μουσικανὸς τε ξυλληφθεὶς ἄγεται πρὸς Πείθωνος, καὶ τοῦτον κρεμάσαι κελεύει Ἀλέξανδρος ἐν τῇ αὐτοῦ γῇ, καὶ τῶν Βραχμάνων ὅσοι αἴτιοι τῆς ἀποστάσεως τῷ Μουσικανῷ κατέστησαν.¹³⁰

Curtius notes that he was crucified (*in crucem sublato*; chapt. 1 § 2.19) – which clarifies Arrian's usage. Another episode describes Alexander's execution of the satrap of Persia, Orxines, who had usurped his position.¹³¹

Orxines was convicted of robbing temples and royal tombs and of unjustly putting to death many Persians. Those who had been so ordered by Alexander crucified [suspended] him.

καὶ ἐξηλέγχθη Ὀρξίνης ἱερά τε ὅτι σεσυλήκει καὶ τάφους βασιλικούς, καὶ Περσῶν πολλοὺς ὅτι οὐ ξὺν δίκῃ ἀπέκτεινε. τοῦτον μὲν δὴ οἷς ἐτάχθη ὑπὸ Ἀλεξάνδρου ἐκρέμασαν ...¹³²

Arrian depicts a scene in Ecbatana in which Alexander's friend Hephaestion falls ill. Plutarch confirms that the execution was a crucifixion.

According to some authors, he crucified the physician Glaucias because medicine had been ill administered to Hephaestion, others wrote that Glaucias, while a spectator at the games, had neglected Hephaestion who was drunk with wine.

οἱ δὲ καί, τὸν ἰατρὸν Γλαυκίαν ὅτι ἐκρέμασε, καὶ τοῦτο[ν] ὥς ἐπὶ φαρμάκῳ κακῶς δοθέντι, οἱ δέ, ὅτι οἴνου περιεῖδεν ἐμπλησθέντα θεωρῶν αὐτός.¹³³

A Spartan soldier named Thibron who had besieged Cyrene dies at the hand of one of Ptolemy I's generals, Ophellas, in the summer of 322.

The inhabitants of Taucheira, Ophellas having granted them the authority, tortured Thibron and sent him to be crucified [suspended] in the port of Cyrene.

(he commanded that the body be sewn in a skin and suspended), 60.2 τὸ σῶμα τοῦ Κλεομένου ἀνεσταυρωμένον (the "crucified" body of Cleomenes). Since hanging (suicide) is rare for Romans (and was not used as a punishment in the imperium or Republic), Plutarch specifically indicates it (as in Brut. 31.5 κρεμαμένη [a Xanthian woman] μὲν ἐξ ἀγχόνης).

¹³⁰ Arrian Anab. 6.17.2. Cf. chapt. 1 § 2.19.

¹³¹ Arrian Anab. 6.29.2 and see 6.28.3 for Alexander's intention to appoint Peucestas as satrap.

¹³² Arrian. Anab. 6.30.2. In Curt. 10.1.30-7 he is innocent of all charges. On the episode, cf. A. B. Bosworth, *Conquest and Empire. The Reign of Alexander the Great*, Cambridge 1988, 154, 240.

¹³³ Arrian Anab. 7.14.4 = Plutarch Alex. 72.3 (ἀνεσταύρωσεν) in § 2.6 above.

οἱ δὲ Τευχειρῖται Ὀφέλλα τὴν ἐξουσίαν δόντος ἠκίσαντό τε τὸν Θίβρωνα καὶ εἰς τὸν τῶν Κυρηναίων ἔπεμψαν κρεμασθῆναι λιμένα.¹³⁴

Crucifixion is probably what Arrian intended in these accounts, given his Roman context and the parallel texts (Curtius and Plutarch). In general *κρεμάω* (“suspend”) is more appropriate for crucifixion than impalement. This is also indicated by his use of the verb for Prometheus’s punishment:

When the Macedonians observed a certain cave in the territory of the Parapamisadae, they said that it was that cave of the Titan Prometheus, in which he was crucified [suspended] because of his theft of fire.

καὶ τι καὶ ἄντρον ἐπιφρασθέντες ἐν Παραπαμισάδαισι, τοῦτο ἔφασαν ἐκεῖνο εἶναι τοῦ Προμηθέως τοῦ Τιτηνός τὸ ἄντρον, ἐν ᾧ ἐκρέματο ἐπὶ τῇ κλοπῇ τοῦ πυρός.¹³⁵

In this narrative Prometheus is attached to the cave in some fashion with fetters, ropes, or nails (cp. Lucian’s version in § 2.10 below). This use of the verb (*ἐκρέματο*) implies that Arrian refers to crucifixion and not impalement (or hanging) in the other texts above. The verb does not refer to an impalement (with clear semantic hints) in any text I am aware of.

2.9 Appian (*end of I A.D. – 160s*)

Perdiccas, the successor of Alexander in Macedonia, probably executed Ariarathes, the king of Cappadocia, ca 322.

But Perdiccas who after Alexander ruled the Macedonians, either because he had caused a revolt or to gain possession of his realm, captured and suspended Ariarathes who ruled Cappadocia ...

Περδίκκας δέ, ὃς ἐπὶ Ἀλεξάνδρῳ τῆς Μακεδόνων ἦρχεν, Ἀριαράθην, Καππαδοκίας ἡγούμενον, εἴτε ἀφιστάμενον εἴτε τὴν ἀρχὴν αὐτοῦ περιποιούμενος Μακεδόσιν, εἴλε καὶ ἐκρέμασε ...¹³⁶

¹³⁴ Arrian Succ., frag. 1.18 (from Photius Bibl. 92, BiTeu Arriani scripta minora vol. 2, 260,20-3 Roos/Wirth). On the episode, see Bosworth, *Conquest and Empire*, 291-2 (the date of the execution).

¹³⁵ Arrian Indica 5.11.3. They had begun calling Parapamisos “Caucasus.” Cp. the account in Anab. 5.3.2 where Prometheus is chained in the cave (τοῦτο ἄρα ἦν τοῦ Προμηθέως τὸ ἄντρον ἵνα ἐδέδετο). In Peripl. M. Eux. 11.5 ὁ Προμηθεὺς κρεμασθῆναι ὑπὸ Ἡφαίστου κατὰ πρόσταξιν Διὸς μυθεύεται (the story is told that Prometheus was suspended by Hephaestus according to the command of Zeus). See his reference to the crucifixion of Perdiccas in § 2.9 below. Not all uses are for some kind of crucifixion. In Cyneg. 5.5 a dog is suspended on a man’s neck (*ἐκκρέματα τοῦ αὐχένος*). In Anab. 6.10.3 soldiers besieging a city fixed pegs into a wall of earth, suspended themselves on the pegs, and hoisted themselves up (οἱ μὲν πασσάλους ἐμπηγνύοντες ἐς τὸ τεῖχος γῆινον ὄν, καὶ κατὰ τούτους ἐκκρεμαννύμενοι χαλεπῶς ἀνεῖρπον).

¹³⁶ Appian Mithr. 8/25 (Bi Teu Appiani historia romana I, 424,2-5 Viereck/Roos), my trans. done with ref. to Appian’s Roman History, LCL, vol. 1-4, ed. and trans. H. White,

Whether this is a historical crucifixion or not, Appian probably thought the execution was an example of the Roman penalty. At the end of the First Punic War (ca 242 B.C.E.), the Libyan soldiers demanded their pay for their service to the Carthaginians in Sicily:

... they were angry also on account of the killing of 3000 of their own number whom the Carthaginians had crucified for deserting to the Romans.

... ἐχάλεπαινόν τε αὐτοῖς τῆς ἀναιρέσεως τῶν τρισχιλίων, οὓς ἐσταυρώκεσαν τῆς ἐς Ῥωμαίους μεταβολῆς οὕνεκα.¹³⁷

When Licinius Lucullus marched against Tigranes II in 69 B.C.E., the Armenian king “suspended” the first messenger who came to tell him of Lucullus’s approach (ὁ γὰρ τοι πρῶτος εἰπὼν κεκρέμαστο ὑπ’ αὐτοῦ), believing that the messenger had disturbed the cities.¹³⁸ The verb in Appian’s usage is more suited to crucifixion than impalement. Mithridates VI crucified deserters who were suffering from want of provisions due to Lucullus’s devastations (66 B.C.E.):¹³⁹

The deserters whom he caught he crucified, put out their eyes, or burned them alive. But while the fear of punishment lessened the number of deserters, the scarcity of provisions weakened him.

καὶ τοῦσδε μὲν ὁ Μιθριδάτης ἐρευνώμενος ἐκρήμνη καὶ ὀφθαλμοὺς ἀνώρυττε καὶ ἔκαψε. καὶ τὰ μὲν τῶν αὐτομολιδῶν ἦσσαν ἠνώχλει διὰ φόβον τῶν κολάσεων, ἐπέτριβε δ’ ἡ ἀπορία ...¹⁴⁰

2.10 Lucian of Samosata (born ca 120)

Lucian chose to use terminology appropriate for crucifixion in his *Prometheus*. Hermes, searching for a suitable place to have Prometheus “nailed up” (1: προσηλωσθαι), elicits this response from Hephaistos:

Yes, let’s look about, Hermes : we mustn’t crucify him low and close to the ground for fear that men, his own handiwork, may come to his aid, nor yet on the summit, either, for

Cambridge, MA/London 1912-1913, 2.253 (who has “hanged”). Cf. A. B. Bosworth, *Alexander and the East: The Tragedy of Triumph*, Oxford 1996, 157 who describes the execution as a crucifixion. He refers to Diod. 18.16.3 (a crucifixion), Arrian Succ., frag. 1.11 (BiTeu Arriani Scripta minora II, 259,4 Wirth) ἐκρέμασεν, the death of Perdiccas by suspension/crucifixion, Plutarch Eum. 3.13 (no mention of the execution). Diodorus 31.19.4 depicts his death in battle. Cf. intro. § 2.2.

¹³⁷ Appian Sicelica frag. 2.8 (I, 59,12-4 Vier./Roos). Trans. of White, Appian’s Roman History, 1.131.

¹³⁸ Appian Mithr. 84/378 (I, 494,26 Vier./Roos). Plutarch, Luc. 25.1 only says that the messenger’s head was cut off.

¹³⁹ Pompey was given charge of the war against Mithridates in 66 (cf. G. E. F. Chilver and E. Badian, *Pompeius Magnus Gnaeus* ³OCD, 1215-6).

¹⁴⁰ Appian Mithr. 97/450-1 (I, 508,4-7 Vier./Roos), trans. of White, Appian, 2.425.

he would be out of sight from below. Suppose we crucify him half way up, somewhere hereabouts over the ravine, with his hands outstretched from this rock to that one.

Περικοποῶμεν, ὃ Ἑρμῆ· οὕτε γὰρ ταπεινὸν καὶ πρόσγειον ἐσταυρῶσθαι χρή, ὥς μὴ ἐπαμύνειεν αὐτῷ τὰ πλάσματα αὐτοῦ οἱ ἄνθρωποι, οὔτε μὴν κατὰ τὸ ἄκρον, – ἀφανὴς γὰρ ἂν εἴη τοῖς κάτω – ἀλλ' εἰ δοκεῖ κατὰ μέσον ἐνταυθα ποῦ ὑπὲρ τῆς φάραγγος ἀνεσταυρῶσθαι ἐκπετασθεὶς τῷ χειρὶ ἀπὸ τουτοῦ τοῦ κρημνοῦ πρὸς τὸν ἐναντίον.¹⁴¹

The image is cruciform, which corresponds to Lucian's concept of a *stauros* (intro. § 2.1). Hermes notes that the sheer rock will “make a handy cross” (ἐπικαιρότατος ἂν ὁ σταυρὸς γένοιτο).¹⁴² Hermes refuses Prometheus's request for mercy since he is afraid all three would then be crucified:

Don't you suppose the Caucasus has room enough to hold two more pegged up? Come, hold out your right hand. Secure it, Hephaestus, and nail it up, and bring your hammer down with a will. Give me the other hand too. Let that be well secured also.

ἢ οὐχ ἱκανὸς εἶναί σοι δοκεῖ ὁ Καύκασος καὶ ἄλλους χωρῆσαι δύο προσπαταλευθέντας; ἀλλ' ὄρεγε τὴν δεξιάν· σὺ δέ, ὃ Ἥφαιστε, κατὰκλειε καὶ προσήλου καὶ τὴν σφῦραν ἐρρωμένως κατὰφερε. δὸς καὶ τὴν ἑτέραν· κατελήφθω εὖ μάλα καὶ αὕτη.¹⁴³

Undoubtedly Lucian was guided by his experience of Roman crucifixions in which the hands were sometimes nailed. Prometheus describes his crucifixion in these terms: “near the Caspian gates here in the Caucasus, piteous

¹⁴¹ Lucian Prom. 1, trans. of Lucian, vol. 1-8, LCL, trans. A. M. Harmon et al., Cambridge, MA/London 1913-67, 2.243. Cp. Artemidorus Onir. 1.76 τὴν τῶν χειρῶν ἔκτασιν. Lucian uses these verbs in his descriptions of Prometheus's crucifixion: ἀνεσταυρώκατέ με (15), τὸν δὲ τῶν τιμῶν ὑμῖν καὶ τῶν θυσιῶν αἴτιον ἀνεσταυρώκατε (17 you have crucified him who procured you your honours and sacrifices; 2.216), Sacr. 6 (ἀνεσταυρώσει ἐπὶ τοῦ Καυκάσου). Cp. Prom. 2 ἀνασκολοισθῆναι, Prom. 7 ἀνασκολοπισθῆσθαι, πέμπειν παλαιὸν οὕτω θεόν (to send such an old god to be crucified), Iupp. conf. 8 [Prometheus] ἀνεσκολοπίσθη. In Prom. 1 Ὁ μὲν Καύκασος, ... ὃ τὸν ἄθλιον τουτονὶ Τιτᾶνα προσηλώσθαι δεήσει (the Caucasus where this miserable Titan will have to be nailed), Dial. d. 5.1 τῷ Καυκάσῳ προσηλωμένος τὸν κάκιστα ὀρνέων ἀπολούμενον αἰτὸν τρέφων τῷ ἥπατι (nailed all this time to Caucasus, with that accursed eagle feeding on my liver, trans. of Harmon, Lucian 7.259), Ps. Apollodorus Bibl. 1.45 [Zeus] ... ἐπέταξεν Ἥφαιστῳ τῷ Καυκάσῳ ὄρει τὸ σῶμα αὐτοῦ προσηλώσθαι ... ἐν δὲ τούτῳ προσηλωθεὶς Προμηθεὺς (Zeus commanded Hephaestus to nail his body to Mt. Caucasus ... Prometheus, nailed to this mountain). Prom. 1 περικοποῶμεν δὲ ἤδη κρημνὸν τινα ἐπιτήδειον ... ὥς βεβαιότερον καταπαγείη τὰ δεσμὰ καὶ οὕτως ἅπανι περιφανὴς εἴη κρεμάνμενος (let us look about for a suitable rock ... so that the irons may be riveted in more firmly and may be in full sight of everybody as he hangs there, Harmon 2.243).

¹⁴² Lucian Prom. 1, Harmon, Lucian 2.243

¹⁴³ Lucian Prom. 2, trans. of Harmon, Lucian, 2.245. In Aeschylus Prom. 64-5 (ἀδαμαντίνου νῦν σφηνὸς αὐθάδῃ γνάθον / στέρνων διαμπὰς πασσάλειν' ἐρρωμένως) Hephaestus drives a wedge through Prometheus's chest. He secures his sides with rings (ibid. 74: σκέλη δὲ κίρκωσον βίαι) and places piercing fetters (76: ἐρρωμένως νῦν θείναι διατόρους πέδας) on his limbs (81: κόλοισιν ἀμφίβλητρε' ἔχει).

spectacle to all the Scythians” (ἀνεσταυρωσθαί με πλησίον τῶν Κασπίων τούτων πυλῶν ἐπὶ τοῦ Καυκάσου, οἷκτιστον θῆαμα πᾶσι Σκύθαις).¹⁴⁴ The eagles peck out Prometheus’s liver while he is fastened to the cross (καὶ δεσμὰ καὶ σταυροὺς καὶ Καύκασον ὅλον ἐπινοεῖν καὶ ἀετοὺς καταπέμπειν καὶ τὸ ἥπαρ ἐκκολάπτειν).¹⁴⁵ Prometheus, complaining of the wrath of the gods, compares them unfavorably to that of humans:

One would expect them to be more quick to wrath than the gods, but in spite of that there is not one among them who would propose to crucify his cook if he dipped his finger into the broth while the meat was boiling and licked off a little, or if he pulled off a bit of the roast and gobbled it up. No, they pardon them. To be sure, if they are extremely angry, they give them a slap or hit them over the head ; but among them nobody was ever crucified on so trivial a ground.

ἀλλ' ὅμως ἐκείνων οὐκ ἔστιν ὅστις τῷ μαγείρῳ σταυροῦ ἂν τιμήσαιτο, εἰ τὰ κρέα ἔψων καθείς τὸν δάκτυλον τοῦ ζωμοῦ τι περιελιχμήσατο ἢ ὀπτωμένων ἀποσπάσας τι κατεβρόχθισεν, ἀλλὰ συγγνώμην ἀπονέμουσιν αὐτοῖς· εἰ δὲ καὶ πάνυ ὀργισθεῖεν, ἢ κονδύλους ἐνέτριψαν ἢ κατὰ κόρρης ἐπάταξαν, ἀνεσκολιπίσθη δὲ οὐδεὶς παρ' αὐτοῖς τῶν τηλικούτων ἔνεκα.¹⁴⁶

Lucian, in his *Philosopseudes*, mocks exorcism and includes a reference to the magic powers of nails from crosses. Eucrates, referring to his abilities in that discipline, says,

At first I was disturbed by them, but now, of course, because of their familiarity, I do not consider that I am seeing anything out of the way, especially since the Arab gave me the ring made of iron from crosses and taught me the spell of many names.

καὶ τὸ μὲν πρῶτον ἐταραττόμην πρὸς αὐτά, νῦν δὲ διὰ τοῦ ἔθους οὐδέν τι παράλογον ὀρᾶν μοι δοκῶ, καὶ μάλιστα ἐξ οὗ μοι τὸν δακτύλιον ὁ Ἄραψ ἔδωκε σιδήρου τοῦ ἐκ τῶν σταυρῶν πεποιημένου καὶ τὴν ἐμφερῆ ἐδίδασκεν τὴν πολωνύμιον, ἐκτός εἰ μὴ κάμοι ἀπιστήσεις, ὦ Τυριάδη.¹⁴⁷

Lucian gives a derisive description of Peregrinus on the way to his self-immolation in Olympia:

Anyhow, he was being escorted by crowds and getting his fill of glory as he gazed at the number of his admirers, not knowing, poor wretch, that men on their way to the cross or in the grip of the executioner have many more at their heels.

παρεπέμπετο δὲ ὅμως ὑπὸ πολλῶν καὶ ἐνεφορεῖτο τῆς δόξης ἀποβλέπων ἐς τὸ πλῆθος τῶν θαυμαζόντων, οὐκ εἰδὼς ὁ ἄθλιος ὅτι καὶ τοῖς ἐπὶ τὸν σταυρὸν ἀπαγομένοις ἢ ὑπὸ τοῦ δημίου ἐχομένοις πολλοὶ πλείους ἔπονται.¹⁴⁸

¹⁴⁴ Lucian Prom. 4, Harmon, Lucian 2.247.

¹⁴⁵ Lucian Prom. 9 “ought he to conjure up irons and crosses and a whole Caucasus and send down eagles and pick out my liver?” Harmon, Lucian, 2.253.

¹⁴⁶ Lucian Prom. 10, Harmon, Lucian 2.253. Cp. Hor. S. 1.3.80-83 (chapt. 1 § 1.10).

¹⁴⁷ Lucian Philops. 17, trans. of Harmon, Lucian, 3.345-7.

¹⁴⁸ Lucian Peregr. 34, trans. of Harmon, Lucian, 5.39.

Lucian's narrator saw Peregrinus smear his eyes with salve shortly before his death,

It is as if a man about to go up on a cross should nurse the bruise on his finger.

ὁμοιον ὥς εἴ τις ἐπὶ σταυρὸν ἀναβήσεσθαι μέλλων τὸ ἐν τῷ δακτύλῳ
πρόσπταισμα θεραπεύει.¹⁴⁹

A tyrant, Megapenthes, resists getting in Charon's ship to go down to Hades. The slave Cyniscus threatens to beat him with his staff:

{Megapenthes} What, will a Cyniscus make bold to shake his staff at me? Did I not come within an ace of tricing you up to a cross [literally "nailing you"] the other day because you were too free-spoken and sharp-tongued and censorious?

{Cyniscus} That is why you yourself will stay nailed to the mast.

{ΜΕΓΑΠΕΝΘΗΣ} Τολμήσει γὰρ Κυνίσκος ἐπανατεínaσθαι μοι τὸ βάκτρον; οὐκ ἐγὼ σε πρόφην, ὅτι ἐλεύθερος ἄγαν καὶ τραχὺς ἦσθα καὶ ἐπιτιμητικός, μικροῦ δεῖν προσεπαττάλευσα;

{ΚΥΝΙΣΚΟΣ} Τοιγαροῦν μενεῖς καὶ σὺ τῷ ἰστῷ προσεπατταλευμένος.¹⁵⁰

In this text Lucian refers to crucifixion as the normal penalty for slaves. Lucian's narrator describes Peregrinus's study of Christianity in Palestine:

... in a trice he made them all look like children; for he was prophet, cult-leader, head of the synagogue, and everything, all by himself. He interpreted and explained some of their books and even composed many, and they revered him as a god, made use of him as a lawgiver, and set him down as a protector, next after that other, to be sure, whom they still worship, the man who was crucified in Palestine because he introduced this new cult into the world.

ἐν βραχεὶ παίδας αὐτοὺς ἀπέφηνε, προφήτης καὶ θιασάρχης καὶ ξυναγωγεὺς καὶ πάντα μόνος αὐτὸς ὧν, καὶ τῶν βίβλων τὰς μὲν ἐξηγεῖτο καὶ διεδάφει, πολλὰς δὲ αὐτὸς καὶ συνέγραψεν, καὶ ὥς θεὸν αὐτὸν ἐκεῖνοι ἡδοῦντο καὶ νομοθέτῃ ἐχρῶντο καὶ προστάτην ἐπεγράφοντο, μετὰ γοῦν ἐκείνου ὃν ἔτι σέβουσι, τὸν ἄνθρωπον τὸν ἐν τῇ Παλαιστίνῃ ἀνασκολοπισθέντα, ὅτι καινὴν ταύτην τελετὴν εἰσήγεν ἐς τὸν βίον.¹⁵¹

The narrator thinks the Christians are deluded:

Furthermore, their first lawgiver persuaded them that they are all brothers of one another after they have transgressed once for all by denying the Greek gods and by worshipping that crucified sophist himself and living under his laws.

ἔπειτα δὲ ὁ νομοθέτης ὁ πρῶτος ἔπεισεν αὐτοὺς ὥς ἀδελφοὶ πάντες εἶεν ἀλλήλων, ἐπειδὴν ἅπαξ παραβάντες θεοὺς μὲν τοὺς Ἑλληνικοὺς ἀπαρνήσωνται, τὸν δὲ ἀνασκολοπισμένον ἐκείνον σοφιστὴν αὐτὸν προσκυνῶσιν καὶ κατὰ τοὺς ἐκείνου νόμους βιωσιν.¹⁵²

¹⁴⁹ Lucian Peregr. 45, trans. of Harmon, Lucian, 5.51.

¹⁵⁰ Lucian Cat. 13, trans. of Harmon, Lucian, 2.29.

¹⁵¹ Lucian Peregr. 11, trans. of Harmon, Lucian, 5.11.

¹⁵² Lucian Peregr. 13, trans. of Harmon, Lucian, 5.15.

His account of the ascension of Peregrinus in the form of a vulture and his later appearance in white raiment probably mocks the Christians' belief in the resurrection of Christ.¹⁵³

Lucian makes a number of other references to crucifixion.¹⁵⁴ His conception of a cross as a Tau (T) has been discussed above.¹⁵⁵

2.11 Polyaeus (II C.E.)

Polyaeus dedicated his *Stratagems* to Marcus Aurelius and Lucius Verus. He recounts the story of Cyrus's capture of Sardis and negotiations with Croesus who still held the citadel (546 or 542-1).¹⁵⁶

Cyrus bound the captured relatives of those who held the citadel with Croesus and displayed them to the besieged; he commanded his herald to proclaim that if they would hand over the citadel he would return their relatives, but if they would not hand it over he would suspend/crucify all of them.

Κῦρος τοὺς οἰκείους τῶν μετὰ Κροίσου τὴν ἀκρόπολιν κατεχόντων δῆσας ἔδειξε τοῖς πολιορκουμένοις τῷ κήρυκι προστάξας ἀνειπεῖν, ὥς παραδοῦσι μὲν τὴν ἀκρόπολιν ἀποδώσοι τὰ οἰκεῖα σώματα, μὴ βουλομένων δὲ παραδοῦναι κρεμάσειε πάντας.¹⁵⁷

Given the use of the verb in the first and second centuries, crucifixion is probably the intention of Polyaeus.

¹⁵³ Lucian Peregr. 39-40. Cf. R. Kany, Der Lukanische Bericht von Tod und Auferstehung Jesu aus der Sicht eines hellenistischen Romanlesers, *NovT* 28 (1986) 75-90.

¹⁵⁴ [Lucian] *Macr.* 14 (a tradition of Hieronymus) Ἀραιαράθης δὲ ὁ Καππαδοκῶν βασιλεὺς ... ζωορῆθεις ἀνεσκολοπίσθη (Araiarathes, king of Cappadocia ... captured alive was crucified). Given Lucian's other usage of that verb "crucify" is to be preferred to "impale." No other form of death is mentioned than crucifixion. *Cat.* 6 Τοὺς ἐκ δικαστηρίων δῆτα παράγαγε, λέγω δὲ τοὺς ἐκ τυμπάνου καὶ τοὺς ἀνεσκολοπισμένους (Now bring the output of the courts, I mean those who died by the scourge [plank] and the cross; Harmon, Lucian, 2.13). *Iupp. conf.* 16 Γόχης δὲ ἀνὴρ ἐνάρετος ἀνεσκολοπίσθη πρὸς αὐτοῦ (Goches, a virtuous man was crucified by him [Sardanapulus]). *Iupp. trag.* 19 ἀνασκολοπιζομένους δὲ καὶ τυμπανιζομένους ἐνίοτε τοὺς οὐδὲν ἀδικοῦντας; ... men who are guiltless of all wrong-doing sometimes die by the cross or the scourge [better "plank"]? (Harmon, Lucian, 2.121). *Char.* 14 ἀνασκολοπισθήσεται ἄθλιος ἐκπεσὼν τῆς εὐδαιμονίας ἐν ἀκαρεῖ τοῦ χρόνου (the miserable Polycrates will be crucified losing his happiness in a moment of time), *Char.* 14 [Charon to Clotho] τὰς κεφαλὰς ἀπόμενε καὶ ἀνασκολόπιζε (cut off heads and crucify), *Pisc.* 2 [a philosopher suggests concerning Frankness] Ἐμοὶ μὲν ἀνασκολοπισθῆναι δοκεῖ αὐτόν (I think he should be crucified). *Philops.* 29 εἴ τις ἀπήγγεατο ἢ ἀπετμήθη τὴν κεφαλὴν ἢ ἀνεσκολοπίσθη [concerning the wandering spirits of those who have died violent deaths] if anyone hung himself or had his head cut off or was crucified).

¹⁵⁵ Cf. intro. § 2.1.

¹⁵⁶ The date is from P. Briant, *From Cyrus to Alexander. A History of the Persian Empire*, Winona Lake, IN 2002, 34-5.

¹⁵⁷ Polyaeus *Stratagem.* 7.6.3.

2.12 Valerius Harpocraton (II C.E.)

Harpocraton was perhaps the tutor of the emperor Verus.¹⁵⁸ His *Lexicon of the Ten Attic Orators* includes quotations from literature besides the orators. The following text is probably a reference to Demosthenes' speech *On Behalf of the Liberty of the Rhodians*.¹⁵⁹

Ariobarzanes: Being appointed satrap of Phrygia, he revolted against Artaxerxes (II), who sent an army; when he conquered the warring faction he crucified them.

Ἀριοβαρζάνης: σατράπης Φρυγίας ἀποδειχθεὶς οὗτος παρὰ Ἀρταξέρξου ἀπέστη, ὃς καὶ ἀποστείλας λαὸν τοὺς πολεμήσοντας αὐτῷ καὶ χειρωσάμενος ἐσταύρωσεν.¹⁶⁰

Since Harpocraton was an author of the Roman era (in which impalement is rare as an explicit penalty in the texts), he probably meant crucifixion.

2.13 Cassius Dio (ca 164-after 229)

Zonaras recounts Hasdrubal's defeat at the hands of Metellus in 251, in a tradition probably derived from Dio:

Such was the victory of Metellus; but Hasdrubal, the Carthaginian leader, though he got safely away on this occasion, was later summoned by the Carthaginians at home and crucified.

ὁ μὲν οὖν Μέτελλος οὕτως ἐνίκησεν, ὃ δ' Ἀσδρούβας ὁ τῶν Καρχηδονίων στρατηγὸς σωθεὶς τότε ὕστερον ὑπὸ τῶν οἴκοι Καρχηδονίων ἐκλήθη καὶ ἀνεσκολοπίσθη.¹⁶¹

Here, "was crucified" is a better translation of the passage since Cassius Dio writes in the Roman era and given the contemporary use of ἀνεσκολοπίζω.¹⁶² Zonaras, in another tradition probably derived from Cassius Dio, describes the Carthaginians' crucifixion of the defeated Hanno the Great in 241. He had suffered a loss in a naval battle in Sicily.

Hanno escaped and hastened at once to Carthage. But the Carthaginians, seized with wrath and fear, crucified him ...

¹⁵⁸ N. G. Wilson, Harpocraton, Valerius, ³OCD, 667.

¹⁵⁹ J. Heskell, *The North Aegean Wars, 371-360 B.C.*, Stuttgart 1997, 94 with ref. to Demosthenes 15.9. The revolt was in 366/5.

¹⁶⁰ Harpocraton *Lexicon* in *decem oratores Atticos* (I, 56,15-57,2 Dindorf). B. C. McGing, *The Foreign Policy of Mithridates VI Eupator, King of Pontus*, Leiden 1986, 14 thinks Ariobarzanes was crucified.

¹⁶¹ Cassius Dio 11 (I, 165,12-14 Boissvain) = Zonaras 8.14 (BiTeu II, 214,31-215,2 Dindorf), trans. of Cary, *Dio's Roman History*, 1.439 (who has "impaled").

¹⁶² Cp. the usage in Philo and Lucian, for example.

Ὁ δ' Ἄννων διαφυγὼν εὐθύς εἰς τὴν Καρχηδόνα ἠπεύχθη. οἱ Καρχηδόνιοι δὲ θυμῷ ληφθέντες καὶ φόβῳ τὸν μὲν ἀνεσταύρωσαν ...¹⁶³

Although one can argue whether the Carthaginians actually used the Roman form of crucifixion, Greco-Roman authors certainly thought that they did. Cassius Dio preserves a tradition of Tarquin with a use of *stauros* as “stake”:

... he once bound some citizens naked to stakes in the very Forum and before the eyes of the citizens, and scourged them to death with rods.

ποτε πολιτῶν τινὰς ἔν τε τῇ ἀγορᾷ καὶ ἐν τοῖς τοῦ δήμου ὄμμασι σταυροῖς τε γυμνοὺς προσέδησεν καὶ ῥάβδοις αἰκισάμενος ἀπέκτεινεν.¹⁶⁴

Here it is clear that the execution is not by crucifixion. Cassius Dio also does not claim that Tarquin suspended the citizens. The Germans crossed the Rhine in 17 or 16 B.C.E.:

It seems that the Sugambri, Usipetes, and Tencteri had first seized in their own territory some of the Romans and had crucified them, ...

Σύγαμβροί τε γὰρ καὶ Οὐσιπέται καὶ Τέγκτηροι τὸ μὲν πρῶτον ἐν τῇ σφετέρᾳ τινὰς αὐτῶν συλλαβόντες ἀνεσταύρωσαν ...¹⁶⁵

The historian was aware of Roman crucifixion practice and attributes the same to the Germans – rightly or wrongly. In 44 the Rhodians crucified some Romans:

The freedom of the Rhodians was taken away, because they had crucified some Romans.

τῶν τε Ῥοδίων τὴν ἐλευθερίαν ἀφείλετο, ὅτι Ῥωμαίους τινὰς ἀνεσκόλοπισαν.¹⁶⁶

Because of the use of the verb in Philo, Lucian, and Celsus, “crucified” is a better translation than “impaled.”

After Boudicca’s revolt in 60, the captive Roman citizens were mistreated horribly:

Those who were taken captive by the Britons were subjected to every known form of outrage. The worst and most bestial atrocity committed by their captors was the following. They hung up [suspended] naked the noblest and most distinguished women and then cut

¹⁶³ Cassius Dio 12 (I, 173,9-10 Boissevain) = Zonaras 8.17 (BiTeu II, 222,1 Dindorf).

¹⁶⁴ Cassius Dio 2, frag. 11.6, trans. of Cary, Dio’s Roman History, 1.69.

¹⁶⁵ Cassius Dio 54.20.4. trans of Cary, Dio’s Roman History, 6.333. On the date cf. E. S. Gruen, *The Expansion of the Empire under Augustus*, ²CAH X, 147-97, esp. 179.

¹⁶⁶ Cassius Dio 60.24.4. On subsequent and more favorable relations between Rhodes and Claudius and Nero, cf. M. T. Griffin, *Nero. The End of a Dynasty*, New York 1984, 210, 294 with ref. to Tac. Ann. 12.58.2 (Nero’s successful plea to Claudius on behalf of the Rhodians), Suet. Cl. 25.3 (restoration of liberty to the Rhodians), Nero, 7.2 (Nero’s plea for Rhodes), IGRR IV, 1123 (Griffin, 210 “an inscription honouring the ambassadors who brought a favourable reply from Claudius particularly notes the good offices of the young prince”) and 1124 (a letter from Nero to Rhodes expressing Nero’s goodwill from his youth for the Rhodians). Cf. P. Fabia, *Néron et les Rhodiens*, RPh 20 (1896), 129-45.

off their breasts and sewed them to their mouths, in order to make the victims appear to be eating them; afterwards they impaled the women on sharp skewers run lengthwise through the entire body.

τοῖς τε ἀλίσκομένοις ἀνθρώποις ὑπ' αὐτῶν οὐδὲν τῶν δεινοτάτων ἔστιν ὃ τι οὐκ ἐγίνετο. καὶ ὁ δὴ δεινότατον καὶ θηριωδέστατον ἔπραξαν· τὰς γὰρ γυναικας τὰς εὐγενεστάτας καὶ εὐπρεπεστάτας γυμνὰς ἐκρέμασαν, καὶ τοὺς τε μαστοὺς αὐτῶν περιέτεμον καὶ τοῖς στόμασί σφων προδέρραπτον, ὅπως ὥς καὶ ἐσθίουσαι αὐτοὺς ὀρῶντο, καὶ μετὰ τοῦτο πασάλοις ὀξέσι διὰ παντὸς τοῦ σώματος κατὰ μήκος ἀνέπειραν.¹⁶⁷

The language is important, because ἐκρέμασαν (they suspended) implies suspension (and not impalement) in the text. It is only afterwards that they impaled the victims. Consequently, the historian makes an explicit semantic differentiation between ἐκρέμασαν and ἀνέπειραν (impaled). This is another indication that impalement is fairly rare in Roman texts and that the authors go out of their way to note when the execution was an impalement and not a simple suspension. Dio is shocked by the brutal impalements, and this episode appears to be unique in his experience.

The governor of Britain, Suetonius Paulinus, gave a speech to his troops:

it would be better for us to fall fighting bravely than to be captured and suspended, to look upon our own entrails cut from our bodies, to be spitted on red-hot skewers and to perish by being melted in boiling water ...

ἄμεινόν ἐστι μαχομένους ἡμᾶς ἀνδρείως πεσεῖν ἢ ἀλόντας ἀνασκολοπισθῆναι, τὰ σπλάγχνα τὰ ἐαυτῶν ἐκτμηθέντα ἰδεῖν, πασάλοις διαπύροις ἀναπαρῆναι καὶ ὕδατι ζέοντι τηκομένους ἀπολέσθαι ...¹⁶⁸

Here the context makes it clear that ἀνασκολοπισθῆναι refers to suspension that is distinct from the subsequent impalement (ἀναπαρῆναι), as in the text above. It is important that Cassius Dio specifically emphasizes impalement rather than the more frequent Roman practice of crucifixion.

2.14 Claudius Aelianus (165/70-230/5)

A fragment of Aelian mentions the crucifixion of certain unnamed individuals:¹⁶⁹

And when he seized them – after he tortured them with every outrage, torment, various forms of racking, and fitting punishment – he crucified them on a conspicuous ridge.

ὁ δὲ τούτους συλλαβὼν αἰκίζεται λύμῃ πάσῃ καὶ κατατάσει καὶ στρεβλώσει ποικίλῃ καὶ δικαιοῦσι τῇ προεπωδεδότῃ, ἐν περιόπτῳ λόφῳ σταυρώσας αὐτούς.

¹⁶⁷ Cassius Dio 62.7.1-2.

¹⁶⁸ Cassius Dio 62.11.4, trans. of Cary, Dio's Roman History, 8.101 (who has "impaled"). On the rebellion cf. C. E. Stevens, Suetonius Paulinus, Gaius, ³OCD, 1452-3.

¹⁶⁹ Aelian frag. 276 (BiTeu II, 270,5-7 Hercher) = Suda Λ § 840.

Another fragment describes a sudden winter storm (when it was not winter) that destroyed a barbarian army that was besieging a city. It resulted in the death of the besieger. “The besieger had been crucified, and the storm that arrived not in its season had hastened towards this ending for him” (ἀνεσταύρωτο δὲ ὁ πολιορκῶν, καὶ ἐς τοῦτο οἱ τὸ τοῦ χειμῶνος τοῦ μὴ κατ’ ὥραν ἀπαντήσαντος τὸ τέλος ὠρμήσατο).¹⁷⁰

2.15 *Flavius Philostratus* (d. 244-249)

In his *Heroicus*, Philostratus depicts Heracles’ crucifixion of a centaur:

And they affirm that Heracles crucified the body of the centaur Asbolus and wrote this epitaph for him: I, Asbolus, who fear the punishment of neither men nor gods, suspended downwards from the pointed, resinous fir, giving a great meal to the long-lived ravens.

καὶ γὰρ τὸν Ἡρακλέα φασὶν ἀνασταυρώσαντα τὸ Ἀσβόλου τοῦ κενταύρου σῶμα ἐπιγράψαι αὐτῷ τόδε τὸ ἐπίγραμμα· Ἀσβόλος οὔτε θεῶν τρομέων ὅπιν οὔτ’ ἀνθρώπων ὀξύμοιο κρεμαστὸς ἀπ’ εὐλιπέος κατὰ πεύκης ἀγκειμαι μέγα δεῖπνον ἀμετροβίοις κοράκεσιν.¹⁷¹

This is not an impalement since a pine tree is used, and since Heracles apparently intends the centaur to suffer at length. In addition, it is not entirely clear that it is a pre-mortem suspension.

2.16 *Palladas of Alexandria* (IV C.E.)

Neil Hopkinson affirms of Palladas that “it is hardly possible to infer from his poems whether he was a Christian, a pagan, or an agnostic.”¹⁷² The Greek Anthology preserves a poem in which Sarapis appears in a dream to a murderer who was sleeping under an unsound wall. The god tells him to sleep in another place. The wall fell and the murderer offered sacrifice the next morning thinking that the gods took pleasure in murderers.

But Sarapis appeared to him again at night and prophesied thus to him: “Wretch, dost thou think that I protect criminals? If I did not let thee be killed now, it is that thou now hast escaped a painless death; but know that thou art reserved for the cross.”

ἀλλ’ ὁ Σάραπισ ἔχρησε πάλιν διὰ νυκτὸς ἐπιστάς·

“Κήδεσθαί με δοκεῖς, ἄθλιε, τῶν ἀδίκων;

εἰ μὴ νῦν σε μεθ’ ἡκα θανεῖν, θάνατον μὲν ἄλυπον

¹⁷⁰ Aelian frag. 65 (BiTeu II, 216,19-21 Hercher) = Suda A § 2900 (Adler). Hercher prints ὠρμήσατο (bring into harbor, came), apparently an emendation of J. Toup, but the MSS of the Suda have ὠρμήσατο. I thank Professors Jerker and Karin Blomqvist for this translation.

¹⁷¹ Philostratus *Heroicus* 19.17 (Olearius p. 748 = BiTeu II, 214,5-10 Kayser). The epitaph is the trans. of Hengel, *Crucifixion*, 12 slightly modified.

¹⁷² N. Hopkinson, *Palladas*, ³OCD, 1100. Cp. A. Cameron, *Palladas and Christian Polemic*, JRS 55 (1965) 17-30 (argues Palladas was a pagan).

νῦν ἔφυγες, σταυρῷ δ' ἵσθι φυλαττόμενος.”¹⁷³

The cross awaiting him was one of the penalties murderers suffered during late antiquity (before Constantine).¹⁷⁴

2.17 *Philogelos*

Philogelos, or “laughter lover” is a collection of jokes associated with an unknown grammarian named Hierocles and a Philagrios. It includes some jokes that can be dated to the third and fourth centuries.¹⁷⁵ One of the jokes mentions crucifixion.

On seeing a runner who had been crucified, an Abderite remarked, “By the gods, now he does fly – literally!”

Ἀβδηρίτης ἰδὼν δρομέα ἐσταυρωμένον εἶπε· Μὰ τοὺς θεοὺς οὗτος οὐκέτι τρέχει, ἀλλὰ πέτεται.¹⁷⁶

Given Constantine’s abolition of the penalty, it probably dates before his era.

2.18 *Ps. Phalaris*

This epistolographic author, basing himself on the character of the tyrant of Sicily, writes of his legendary cruelty in a letter addressed to the poet Stesichorus. He describes the fate of those who have tried to destroy him and recommends that they call him “murderous, atheist, man under a curse, tyrant,” and so forth (μυαιφόνον, ἄθεον, ἐναγῆ, τύραννον).

For if they praised me, the most evil individuals [i.e., those who have tried to destroy Phalaris] would seem to be slandering me to good people; some of whom [the evil] were burned by me, shut up in the bull, others were crucified where they were destined to be in the presence of the rest, no longer able to devise any evil against us ...

ἐπαινοῦντες γάρ με διαβάλλειν εἰκόασι πρὸς τοὺς χρηστοὺς οἱ πονηρότατοι, ὧν οἱ μὲν ἐπυρῳθίσαν ὑφ' ἡμῶν ἔμφοροι τῷ ταύρῳ, οἱ δ' ἀνεσκολοπίσθησαν ἔνθα ἔμελλον ἐμπρόσωποι ἔσεσθαι τοῖς λοιποῖς μηδὲν κατ' ἡμῶν τεκταίνειν κακόν ...¹⁷⁷

The letters may date as late as the fifth century.¹⁷⁸

¹⁷³ Anth. Graec. 9.378, trans. of Paton, Greek Anthology, 3.209.

¹⁷⁴ Cf. chapt. 5 § 1.7 (PS [Pauli Sententiae] 5.23.1 = Coll. 1.2.2).

¹⁷⁵ W. F. Hansen, *Anthology of Ancient Greek Popular Literature*, Bloomington 1998, 272.

¹⁷⁶ Philogelos 121. Trans. of Hierocles, *The Philogelos, or, Laughter-Lover*, trans. B. Baldwin, Amsterdam 1983, 23. Abdera was a town in Thrace, whose inhabitants possessed a reputation for stupidity in antiquity. Cf. F. Hartog, *Memories of Odysseus. Frontier Tales of Ancient Greece*, Chicago 2001, 131.

¹⁷⁷ Phalaris Ep. 147.3 (458 Hercher).

¹⁷⁸ M. B. Trapp, *Letters, Greek*, ³OCD, 846-7.

3 Romance Novels

The authors of the Greek romances do not describe historical crucifixions, but they do provide one with insights into Roman and possibly Greek practice.

3.1 *Chariton of Aphrodisias (I – II C.E.)*

Chariton's novel, set in the fourth century B.C.E., nevertheless reflects the contemporary world, probably that of the first century of the common era.¹⁷⁹ In the novel Chaereas is deceived by frustrated suitors into thinking Callirhoe is unfaithful (1.4.6). He kicks her in the diaphragm, and she appears to be dead (1.4.12-5.1). After her burial, some grave robbers/pirates take her to be sold. Their chief is later captured. After the chief of the pirates, Theron, had been tortured (3.4.7) with rack, fire, and scourges, he suffered crucifixion in Syracuse:

As Theron was led away, a great part of the crowd followed. He was crucified in front of Callirhoe's tomb, and from his cross he looked out on that sea over which he had carried as a captive the daughter of Herocrates, whom even the Athenians had not taken.

ἀπαγομένῳ δὲ Θήρωνι μέγα μέρος τοῦ πλήθους ἐπηκολούθησεν. ἀνεσκολοπίσθη δὲ πρὸ τοῦ Καλλιρόης τάφου καὶ ἔβλεπεν ἀπὸ τοῦ σταυροῦ τὴν θάλασσαν ἐκείνην, δι' ἧς αἰχμάλωτον ἔφερε τὴν Ἑρμοκράτους θυγατέρα, ἣν οὐκ ἔλαβον οὐδὲ Ἀθηναῖοι.¹⁸⁰

The comment on the pirate's view makes it clear that the penalty is not an impalement. Chaereas, searching for his wife, becomes a slave of a man named Mithridates in Caria (3.7.3). Meanwhile Dionysius had married Callirhoe in Miletus (she thinking Chaereas was dead). Some of Chaereas's fellow chained slaves attempted to escape after murdering the overseer:

They were caught that night and all imprisoned more carefully, in stocks, and the next day the estate manager reported the incident to his master. Without even seeing them or hearing their defense the master at once ordered the crucifixion of the sixteen men in the hut. They were brought out chained together at foot and neck, each carrying his cross – the men executing the sentence added this grim spectacle to the inevitable punishment as an example to frighten the other prisoners. Now Chaereas said nothing when he was led off with the others, but Polycharmus, as he carried his cross, said: "Callirhoe, it is because of you that we are suffering like this!"

¹⁷⁹ Stefan Tilg, *Chariton of Aphrodisias and the Invention of the Greek Love Novel*, New York 2010 (36-79) argues for a mid first century date. Cp. *Collected Ancient Greek Novels*, ed. B. P. Reardon, Berkeley et al. 1989, 18 (cited by the editor's name below).

¹⁸⁰ Chariton Chaer. 3.4.18, trans. of Reardon, *Collected*, 57-8. Providence had kept him alive for tortures and crucifixion while his fellow pirates were dying onboard ship (3.3.12 βασιάνους καὶ σταυρῶ τὸν ἄνδρα τηρούσης). Cp. the recapitulation in 8.7.8 [Theron] βασανισθεῖς ἀνεσκολοπίσθη. A dioiketes of a Dionysius had bought (1.14.4) Callirhoe. Dionysus married her (3.2.15).

φωραθίντες οὖν ἐκείνης τῆς νυκτὸς ἐδέθησαν ἐπιμελέστερον ἐν ξύλῳ πάντες, μεθ' ἡμέραν δὲ <ἀφικόμενος> ὁ οἰκονόμος ἐμήνυσε τῷ δεσπότη τὸ συμβάν, καὶ κεῖνος οὐδὲ ἰδὼν αὐτοὺς οὐδὲ ἀπολογουμένων ἀκούσας εὐθὺς ἐκέλευσε τοὺς ἐξκαίδεκα τοὺς ὁμοσκήνους ἀνασταυρῶσαι. (7.) προήχθησαν οὖν πόδας τε καὶ τραχήλους συνδεδεμένοι, καὶ ἕκαστος αὐτῶν τὸν σταυρὸν ἔφερε· τῇ γὰρ ἀναγκαίᾳ τιμωρίᾳ καὶ τὴν ἕξωθεν φαντασίαν σκυθρωπὴν προσέθεσαν οἱ κολάζοντες εἰς φόβου παράδειγμα τοῖς ὁμοίοις. Χαιρέας μὲν οὖν συναπαγόμενος ἐσίγα, Πολύχαρμος δὲ τὸν σταυρὸν βαστάσας “διὰ σέ” φησίν, “ὦ Καλλιρόη, ταῦτα πάσχομεν. σὺ πάντων ἡμῶν τῶν κακῶν αἰτία.”¹⁸¹

They carried their *patibula* to the site of crucifixion.¹⁸² The detail of the slaves' chains is noteworthy. Cobet argues that this detail in itself (the chains) shows that it would have been impossible for them to carry a large cruciform shape.¹⁸³

Chaereas's friend Polycharmos (who had been released from his chain when he blamed Callirhoe for their fate) responds to Mithridates, who had returned to Caria:

“He is my friend” said Polycharmus. “Sir, please tell the executioner not to separate even our crosses.” This story was greeted with tears and groans and Mithridates sent everybody off to reach Chaereas before he died. They found the rest nailed up on their crosses. Chaereas was just ascending his. So they shouted to them from far off. “Spare him!” cried some; others, “Come down!” or “Don’t hurt him!” or “Let him go!” So the executioner checked his gesture, and Chaereas climbed down from his cross – with sorrow in his heart.

... “τὸν φίλον” εἶπεν ὁ Πολύχαρμος· “ἀλλὰ δέομαί σου, δέσποτα, κέλευσον τῷ δημίῳ μὴδὲ τοὺς σταυροὺς ἡμῶν διαζεῦξαι.” δάκρυα καὶ στεναγμὸς ἐπηκολούθησε τῷ διηγέματι, καὶ πάντας ἔπεμψε Μιθριδάτης ἐπὶ Χαιρέαν, δάκρυα καὶ στεναγμὸς ἐπηκολούθησε τῷ διηγέματι, καὶ πάντας ἔπεμψε Μιθριδάτης ἐπὶ Χαιρέαν, ἵνα μὴ φθάσῃ τελευτήσας. εὗρον δὲ τοὺς μὲν ἄλλους ἀνηρτημένους, ἄρτι δὲ ἐκείνον ἐπιβαίνοντα τοῦ σταυροῦ. πόρρωθεν οὖν ἐκεκράγεσαν ἄλλος ἄλλο τι “φεῖσαι,” “κατάβηθι,” “μὴ τρώσῃς,” “ἄφες.” ὁ μὲν οὖν δῆμιος ἐπέσχε τὴν ὁρμήν· Χαιρέας δὲ λυπούμενος κατέβαινε τοῦ σταυροῦ.¹⁸⁴

The emphasis on the others' being already suspended to their crosses (τοὺς μὲν ἄλλους ἀνηρτημένους) shows that crucifixion and not impalement is

¹⁸¹ Chariton Chaer. 4.2.6-7, trans. from Reardon, *Collected*, 67. Mithridates (4.2.10) prepares to torture Polycharmus to obtain information on the woman (i.e., Callirhoe) he thinks was also complicit in the crime, using scourges, fire, and other instruments of torture (μάστιγες ἤτοῦντο καὶ πῦρ ἔπεφέρετο καὶ βασανιστηρίων ἦν παρασκευή). In 4.3.3 Mithridates ordered the fugitive and murderous slaves to be crucified (4.3.3 σοῦ κελεύσαντος τὴν ἐπὶ τὸν σταυρὸν ἡγόμεθα πάντες). In 4.3.8 Mithridates pities Chaereas not for his chains and cross (τὰ δεσμὰ καὶ τὸν σταυρὸν), but for losing such a woman.

¹⁸² Cf. intro. § 3.1-3.

¹⁸³ Cobet, *Annotationes*, 276.

¹⁸⁴ Chariton Chaer. 4.3.5-6, trans. from Reardon, *Collected*, 68-9.

the intention of the text. Apparently the individuals were attached to their crosses after carrying their *patibula* to the posts already set in the ground.

After discovering Callirhoe was married, Chaereas asked Mithridates to give him back his cross, which he had carried.

“Sir,” he cried, “I implore you, put me back on the cross! It is worse torture to force me to live after such news! Faithless Callirhoe! Wickedest of all women! I have been sold into slavery on account of you; I have dug the earth; I have carried my cross; I have been handed over to the executioner – and you were living in luxury, you were celebrating your marriage, while I was in chains!

ἵκετεύω σε, πάλιν, ὃ δέσποτα, τὸν σταυρόν μοι ἀπόδος. χειρόν με βασανίζεις, ἐπὶ τοιούτῳ διηγήμεαι ζῆν ἀναγκάζων. ἄπιστε Καλλιρόη καὶ πασῶν ἀσεβεστάτῃ γυναικῶν, ἐγὼ μὲν ἐπράθην διὰ σέ καὶ ἔσκαψα καὶ σταυρόν ἐβάστασα καὶ δημίῳ χερσὶ παρεδόθην, σὺ δὲ ἐτρύφας καὶ γάμους ἔθυσες ἐμοῦ δεδεμένου.¹⁸⁵

The narrator’s story varies slightly at the end. Chaereas tells his tale to the crowd in Syracuse. After hearing Chaereas’s name Mithridates had stopped the execution:

When some of the chain gang murdered their guard, Mithridates ordered us all to be crucified ... So Mithridates at once ordered that I be taken down from the cross– I was practically finished by then – and put me among his closest friends; he was anxious to restore Callirhoe to me ...

ἐπεὶ δὲ τὸν δεσμοφύλακα τῶν δεσμωτῶν ἀπέκτεινάν τινες, ἀνασταυρωθῆναι πάντας ἡμᾶς Μιθριδάτης ἐκέλευσε ... ταχέως οὖν ὁ Μιθριδάτης ἐκέλευσε καθαιρεθῆναι με τοῦ σταυροῦ σχεδὸν ἥδη πέρας ἔχοντα, καὶ ἔσχεν ἐν τοῖς φιλάτοις ἀποδοῦναι δέ μοι Καλλιρόην ἔσπευδε ...¹⁸⁶

The narrator does not say how long Chaereas had been suspended on his cross, but he was close to death and the implication seems to be that he had been there for a prolonged period. Certainly Chariton does not envision the penalty as impalement, and this implies that none of his suspension language refers to crucifixion. The references to carrying *stauroi* (i.e., *patibula*) imply that Chariton envisioned a cruciform shape for the object on which the individuals in his romance were crucified.

¹⁸⁵ Chariton Chaer. 4.3.9-10, trans. from Reardon, Collected, 69. In a letter to Callirhoe (4.4.10) the hero tells his wife he ascended the cross because of her (ἐπὶ σταυρόν ἀνέβην διὰ σέ). In 5.10.6 Chariton has a noose around his neck after he has discovered Callirhoe’s marriage to Dionysius and says, “I should be dying a happier death if I were ascending the cross set up for me by false accusation, when I was prisoner in Caria” (“εὐτυχέστερον μὲν” εἶπεν “<ἀν> ἀπέθνησκον, εἰ ἐπὶ τὸν σταυρόν ἀνέβαινον, ὃν ἔπηξέ μοι κατηγορία ψευδῆς ἐν Καρίᾳ δεδεμένῳ” trans. of Reardon, Collected, 88). In 6.2.10 he contemplates suicide because the king is harsher than the cross (τοῦ σταυροῦ χαλεπώτερον βασιλέα), thinking that the king will not restore Callirhoe to him.

¹⁸⁶ Chariton Chaer. 8.8.2, 4, trans. of Reardon, Collected, 123.

3.2 Xenophon of Ephesus (ca 100-150)

Xenophon's *Ephesian Tale* of Anthia and Habrocomes depicts two youths who were married in Ephesus and then sent away by their parents because of an oracle. The hero, Habrocomes, had been sold to Araxos in Pelusium. Araxos's wife killed him, and she accused Habrocomes of the murder. After his trial before the prefect of Egypt, Habrocomes was crucified:

When the prefect heard the particulars, he made no further effort to find out the facts but gave orders to have Habrocomes taken away and crucified ["bound to a cross"].

μαθὼν οὖν ἔκαστα, οὐκέτι οὐδὲ πυθόμενος τὰ γενόμενα κελεύει τὸν Ἀβροκόμην ἀγαγόντας προσαρτῆσαι σταυρῷ.¹⁸⁷

The narrative continues:

Setting up a cross they suspended him, tightly binding his hands and feet with ropes; this is the crucifixion custom of those in that place [Egypt].

ἀναστήσαντες τὸν σταυρὸν προσαρτῶσι, σπάροις τὰς χεῖρας σφίγγαντες καὶ τοὺς πόδας· τοῦτο γὰρ τῆς ἀνασταυρώσεως ἔθος τοῖς ἐκεῖ.¹⁸⁸

The reference to customary crucifixion indicates that Xenophon had a concept of Roman crucifixion. The binding is intriguing, because the Pereire gem also shows fetters used to attach the arms of Jesus to the *patibulum*.¹⁸⁹ Habrocomes offers a prayer to the god of Egypt:

The god took pity on his prayer. A sudden gust of wind arose and struck the cross, sweeping away the subsoil on the cliff where it had been fixed. Habrocomes fell in the torrent and was swept away; his fetters did not get in his way;

Ἡῤῥατο, καὶ αὐτὸν ὁ θεὸς οἰκτεῖρει, καὶ πνεῦμα ἐξαίφνης ἀνέμου γίνεται καὶ ἐμππτει τῷ σταυρῷ καὶ ἀποβάλλει μὲν τοῦ κρημνοῦ τὸ γεῶδες, εἰς δὲ ἦν ὁ σταυρὸς ἡρεισμένος, μπτπει δὲ ὁ Ἀβροκόμης τῷ θεύματι καὶ ἐφέρετο οὔτε τοῦ ὕδατος αὐτὸν οὔτε τῶν δεσμῶν ἐμποδιζόντων ...¹⁹⁰

Clearly it was a crucifixion and not an impalement. He was recaptured and sentenced to be burned by the prefect. After another miraculous deliverance, the prefect questions him and has the murderous wife, Kyno, crucified (Ὁ δὲ ἄρχων τῆς Αἰγύπτου μαθὼν τὰ κατὰ τὸν Ἄραξον, μεταπεμψάμενος ἀνεσταύρωσε τὴν Κυνώ).¹⁹¹ Meanwhile Anthia, who had been captured

¹⁸⁷ Xenophon Eph. 4.2.1, trans. Reardon, Collected, 155.

¹⁸⁸ Xenophon Eph. 4.2.3. It is doubtful that one can make conclusions about the difference between Egyptian and Roman practice using this text since Xenophon is describing a Roman crucifixion (*pace* H. Fulda, *Das Kreuz und die Kreuzigung. Eine antiquarische Untersuchung nebst Nachweis der vielen seit Lipsius verbreiteten Irrthümer. Zugleich vier Excursus über verwandte Gegenstände*, Breslau 1878, 156).

¹⁸⁹ Cf. figure 14. In addition, Jehohanan ben Hagqol's arms were probably attached to the cross by ropes or fetters (cf. chapt. 6 § 1.2).

¹⁹⁰ Xenophon Eph. 4.2.6, trans. Reardon, Collected, 155.

¹⁹¹ Xenophon Eph. 4.4.2.

by robbers, uses a sword to kill a robber who tried to rape her. The other robbers realize what has happened and consider possible punishments for her including killing and burying her with the dead robber or crucifying her (ὁ μὲν τις ἀποκτεῖναι κελεύων καὶ συνθάψαι τῷ Ἀγχιάλου σώματι, ἄλλος δὲ ἀνασταυρῶσαι).¹⁹² Eventually they decide to throw her in a pit with two dogs who they believe will kill her.

3.3 Achilles Tatius (II C.E.)

Occasionally a passage in Achilles Tatius's romance, *Leucippe and Clitophon*, is compared to crucifixion, but the reference is based on a conjecture, which is not necessary to understand the text.¹⁹³ Ganymede suffers this fate:

I pity him and his rape. A savage bird of prey came down on him; snatched up, he suffered outrage and seemed to be tyrannized. And the spectacle was shameful: a young man suspended from talons.

ἐλεῶ δὲ αὐτοῦ καὶ τὴν ἀρπαγὴν· ὄρνις ἐπ' αὐτὸν κατέβη ὀμηστῆς, ὁ δὲ ἀνδρᾶστος γενόμενος ὑβρίζεται καὶ ἔοικεν τυραννουμένῳ.¹⁹⁴ καὶ τὸ θέαμά ἐστιν αἰσχιστον, μειράκιον ἐξ ὀνύχων κρεμάμενον.¹⁹⁵

The reading of the MSS, τυραννουμένῳ, makes good sense in the context of the debate about the merits of heterotic and homoerotic love and coheres well with the violent scene.¹⁹⁶ Ps. Lucian uses a similar word to describe the male tyrannically overcoming his lover, "And who first with his eyes looked at the male as at the female, after doing one of the following: either tyrannically using violence or craftily seducing?" (καὶ τίς ἄρα πρῶτος ὀφθαλμοῖς τὸ

¹⁹² Xenophon Eph. 4.6.2.

¹⁹³ Hengel, Crucifixion, 7-8. Kuhn, Die Kreuzesstrafe, 742, 758.

¹⁹⁴ F. Jacobs (Achillis Tatii Alexandrini de Leucippes et Clitophonitis amoribus libri octo, ed. F. Jacobs, Leipzig 1821, 599) mentioned ἐσταυρωμένῳ as a possible reading instead of τυραννουμένῳ ("an fuit καὶ ἔοικεν ἐσταυρωμένῳ?" [was it perhaps "and he was like one crucified"?]). W. Morel (Zu den griechischen Romanschriftstellern, Mn. 9 [1941] 281-3, esp. 282-3) conjectures τυπαννουμένῳ (stretched out), because the Byzantine copyists would have recognized ἐσταυρωμένῳ. T. W. Lumb (Notes on Achilles Tatius, CIQ 14 [1920] 147-9, esp. 148) rejects Jacobs's conjecture, because "Ganymede carried up to heaven could not possibly have his hands *stretched* out, like those of a crucified man: he would present the appearance of a body limp and helpless; in fact, the author wrote κερανουμένῳ = 'smitten by a thunderbolt.'" He mentions 6.5.4 where αἰτία in the MSS should be αἰμία.

¹⁹⁵ Achilles Tatius, Leucippe et Clitophon 2.37.3, SGLG 1, ed. E. Vilborg, Stockholm 1955, 46,25-47,2.

¹⁹⁶ Cf. E. Cavallini, Achill. Tat. II 37. 2, Eikasmos 1 (1990) 179-182 for a defense of the reading in the MSS. The verb accords well with Clitophon's view of homoerotic love (pederasty in this case). A similar image of tyrants (τοῖς τυράννοις) desiring the male lovers of others (τοὺς ἐρωμένους αὐτῶν) appears in Plutarch Amatorius 16, 420C.

ἄρρεν εἶδεν ὡς θῆλυ, δυοῖν θάτερον ἢ τυραννικῶς βιασάμενος ἢ πείσας πανούργως;).¹⁹⁷

3.4 Iamblichus

The *Babyloniaca* of Iamblichus was probably composed between 165 and 180.¹⁹⁸ Photius's summary of the novel (Bibl. 94) contains a number of references to crucifixion. The Babylonian king, Garmus, had condemned Rhodanes to be crucified because he wanted to marry Sinonis who refused him (i.e., Garmus):

The king's eunuchs Damas and Saccas are given the task of putting Rhodanes onto a cross for this reason. But through Sinonis's efforts he is taken down, and they each avoid their fate, he of crucifixion, she of marriage.

... Δάμα καὶ Σάκας τῶν βασιλικῶν εὐνούχων τὴν προᾶξιν ἐπιτραπέντων, ἐπὶ σταυροῦ ἀναρτώμενος. Ἀλλ' ἐκεῖθεν καθαιρεῖται σπουδῇ Σινωνίδος, καὶ φεύγουσιν ἄμφω, ὁ μὲν τὸν σταυρόν, ἡ δὲ τὸν γάμον.¹⁹⁹

Impalement is clearly not the intended death. A tax collector, Soraechus, who had helped the lovers escape is condemned to be crucified (παράδιδεται δὲ καὶ Σόραιχος ἐπὶ τῷ ἀνασταυρωθῆναι).²⁰⁰ Some Alan mercenaries that had not been paid save him. They were camped in the area where the tax collector was to be crucified (ἐν ᾧ Σόραιχος ἔμελλεν ἀνασταυροῦσθαι).²⁰¹ The Babylonian king stops the crucifixion of Rhodanes:

When Soraechus was being taken to be crucified, Rhodanes was being led to and hoisted onto the cross that had been designated for him earlier by a garlanded and dancing Garmus, who was drunk and dancing round the cross with the flute players and reveling with abandon. While this is happening Sacas [Garmus's eunuch] informs Garmus by letter that Sinonis is marrying the youthful king of Syria. Rhodanes rejoices up high on the cross, but Garmus makes to kill himself. He checks himself, however, and brings down Rhodanes from the cross against his will (for he prefers to die); ...

Ἀλλ' ὕστερον ταῦτα. Ὅτε δὲ Σόραιχος ἐπὶ τὸν σταυρόν ἐπέμπετο, τότε καὶ Ῥοδάνης ὑπ' αὐτοῦ Γάρμου ἐστεφανωμένου καὶ χορεύοντος ἐπὶ τὸν πρότερον σταυρόν πάλιν ἦγετο καὶ ἀνεσταυροῦτο, καὶ Γάρμος μεθύων ἅμα καὶ χορεύων περὶ τὸν σταυρόν σὺν ταῖς αὐλητρίσιν ἔχαιρέ τε καὶ εὐφραίνετο. Ἐν ᾧ δὲ ταῦτα ἐπράττετο, Σάκας πρὸς Γάρμον γράμματα πέμπει ὡς Σινωνὶς τῷ Σύρων βασιλεῖ μειρακίῳ ὄντι γαμεῖται· καὶ Ῥοδάνης ἄνωθεν ἔχαιρε, Γάρμος ἑαυτὸν

¹⁹⁷ Ps. Lucian Amores 20, referred to by Cavallini, Achill. Tat., 180.

¹⁹⁸ G. N. Sandy in Reardon, Collected, 783.

¹⁹⁹ Iamblichus Babyl. 2 (BiTeu 8,2-6 Habrich) = Photius Bibl. Codex 94, 74a, trans. of Reardon, Collected, 785.

²⁰⁰ Iamblichus Babyl. 21 (66,8-9 Habrich) = Photius Bibl Codex 94, 78a. Cp. the description (ibid.) of the tax collector being led away to his cross (ἀπαγομένῳ ἐπὶ τὸν σταυρόν Σοραίχῳ [66,12-3 Habrich]).

²⁰¹ Iamblichus Babyl. 21 (66,14-7 Habrich) = Photius, Bibl. Codex 94, 78a.

ἀνελεῖν ὄρμησεν, ἐπισχὼν δὲ κατάγει Ῥοδάνην ἄκοντα τοῦ σταυροῦ (θανεῖν γὰρ μᾶλλον ἥρεῖτο) ...²⁰²

This also is not a scene of impalement. Lest one object that Photius transforms Iamblichus's original vocabulary, the fragments of the novel indicate the same use of "crucifixion language." In one of the fragments, Sinon tells Soraechus that "Rhodanes was only crucified" (Ῥοδάνης μὲν ἀνεσταυρώθη μόνον). She, prepared to kill a woman she thought was Rhodanes' lover, tells him she fears neither nights nor crosses (μὴ φοβηθεῖσα νύκτας μὴδὲ σταυρούς).²⁰³

3.5 *Heliodorus (230?)*²⁰⁴

The *Ethiopian Story of Theagenes and Charicleia* contains no actual crucifixions. But when the heroine elopes with Theagenes in Delphi (and a band of young men), the town thinks she has been abducted and the chief magistrate Hegesias of Delphi recommends that after they are caught they should be crucified (οὓς ἐγὼ φημι χρῆναι αὐτοὺς τε ὥς ὅτι τάχιστα καταλαβόντας ἀνασκολοπίσαι).²⁰⁵ Impalement is a possible translation here, given the Greek context, but the use of the verb during the imperium almost always implies crucifixion.²⁰⁶

3.6 *The Alexander Romance of Ps. Callisthenes*

There are numerous instances of crucifixion in the various recensions of the *Alexander Romance*.²⁰⁷ Ken Dowden believes the author compiled it in Alex-

²⁰² Iamblichus Babyl. 21-2 (66,22-68,5 Habrich) = Photius Bibl. Codex 94, 78a, trans. of Reardon, Collected, 793.

²⁰³ Iamblichus Babyl. frag. 61 (53,6.12 Habrich). The fragment is from cod. Vaticanus Graecus rescriptus 73, 61f. Another possible fragment (87) (69 Habrich) in the Suda, epsilon §2667 s.v. Ἐπιτεμόμενος (II 386,10 Adler) also uses *stauros*: περικόψας "κέλευσόν με ἀποθνήσκειν ἐπιτεμόμενος τοῦ σταυροῦ τὴν περίοδον" (order me to die by shortening the period of crucifixion).

²⁰⁴ E. L. Bowie, *Heliodorus* (4) ³OCD 676 suggests a date near 230 for the text.

²⁰⁵ Heliodorus *Aethiopica* 4.20.2.

²⁰⁶ Cp. its use in a passage in Chariton *Callirhoe* 3.4.18 where it is clear that it is a crucifixion and not impalement (Theron has time to look out over the sea).

²⁰⁷ Editions used below include: *Historia Alexandri Magni*, ed. W. Kroll, Berlin 1926 (recensio α); *Der griechische Alexanderroman*. Rezension β, ed. L. Bergson, Stockholm, 1965; *Der griechische Alexanderroman*. Rezension γ. Buch I, ed. U. von Lauenstein, BKP 4, Meisenheim am Glan 1962; *Leben und Taten Alexanders von Makedonien*, ed. H. Van Thiel, Darmstadt 1974 (recensio L), *Das byzantinische Alexandergedicht nach dem codex Marcianus 408 herausgegeben*, ed. S. Reichmann, BKP 13, Meisenheim am Glan 1963 (Recensio Byzantina poetica); *Anonymi Byzantini vita Alexandri regis Macedonum*, ed. J. Trumpf, BiTeu, Stuttgart 1974 (recensio ε); *Ps.-Kallisthenes. Zwei mittellgriechische*

andria sometime between 140 and 340 C.E.²⁰⁸ For example, after reading Alexander's letter to the leaders of Tyre, the ambassadors come to grief:

When their chief counselors read the letter they commanded that the ambassadors be scourged asking, "Which one of you is Alexander?" When they said that none of them was, they crucified them.

Ἀναγνόντες τὴν ἐπιστολὴν οἱ πρωτόβουλοι αὐτῶν κελεύουσι τοὺς πρέσβεις μαστίζεσθαι λέγοντες· 'Ποῖός ἐστιν ὑμῶν Ἀλέξανδρος;' Τῶν δὲ λεγόντων μηδὲνα εἶναι ἀνασταυροῦσιν αὐτούς.²⁰⁹

Darius soon after sends Alexander a letter in Syria ordering him to return home

If you do not obey what you have been commanded to do by me, I will send judges to arrest you. You will not thus succeed in not being arrested by my soldiers, and when you are arrested you will not be punished like a son of Philip but you will be crucified as a rebel and robber chief.

εἰ δὲ μὴ πεισθῇς τοῖς κελευομένοις ὑπ' ἐμοῦ, ἐκπέμψω καταδίκους συλληφόμενους σε· οὐ γὰρ οὕτως εὐτυχήσεις, ὥστε <μὴ> ὑπ' ἐμῶν στρατιωτῶν <συλληφθῆναι, καὶ> συλληφθεὶς οὐχ ὥς Φιλίππου παῖς παιδευθῆσθαι, ἀλλ' ὥς ἀποστάτης <καὶ> ἀρχιληστής ἀνασταυρωθῆσθαι.²¹⁰

Alexander is not pleased with the letter-carriers:

Thus spoke Alexander: he commanded that the hands of the letter-carriers be bound behind their backs and that they be led away to be crucified.

Οὕτως εἰπὼν ὁ Ἀλέξανδρος ἐκέλευσεν ἐξαγκωνισθῆναι τοὺς γραμματεφόρους καὶ ἀπαχθέντας σταυρωθῆναι.²¹¹

In one of the recensions the letter carriers plea for mercy from their crosses: And they both were crucified and they said: O master, have mercy on us according to your power and do not let us die this kind of death (καὶ δὴ ἀνασταυροῦνται ἀμφοτέροι καὶ φασιν· ὦ δέσποτα, οἰκτειρησάτω

Prosa-Fassungen des Alexanderromans, vol. 1-2, ed. V. L. Konstantinopulos and A.C. Lolos, BKP 141 and 150, Meisenheim am Glan 1983 (recensio E).

²⁰⁸ Reardon, Collected, 650.

²⁰⁹ Ps. Callisthenes *Historia Alexandri Magni* (Recensio α) 1.35.6 (40,1-3 Kroll). In Recensio L 1.37.3 (54,25-6 Thiel) ἐκέλευσεν ἐξαγκωνίζεσθαι τοὺς γραμματοφόρους Δαρείου καὶ ἀπενεχθῆναι εἰς τὸ σταυρωθῆναι (Alexander commanded that the letter carriers' hands be bound behind their backs and that they be led away to be crucified). In 1.37.6 (42,5-9 Kroll) he listens to their entreaties and releases them. In a late recension, when Alexander takes Tyre he avenges the crucified ambassadors (ἐκδικητὴς γενόμενος τῶν πρέσβεων τῶν τοῦτου, τῶν σταυρωθέντων πρὸ μικροῦ κακῶς παρὰ Τυρίων), Recensio Byzantina poetica (cod. Marcianus 408) line 1596-7 (= 1.35 Reichmann).

²¹⁰ Ps. Callisthenes *Historia Alexandri Magni* (Recensio α) 1.36.5 (41,8-11 Kroll). Cp. Recensio β 1.36 (59,2 Bergson) ὡς ἀποστάτης ἀνασταυρωθῆσθαι (= Recensio γ 1.36DC [128,6 von Lauenstein] and Recensio L 1.36.5 [54,13 Thiel]).

²¹¹ Ps. Callisthenes *Historia Alexandri Magni* (Recensio α) 1.37.4 (42,23-4 Kroll).

ἡμᾶς τὸ σὸν κράτος καὶ μὴ ἐν τούτῳ τῷ θανάτῳ ἑάσης ἡμᾶς ἀποθανεῖν).²¹² Alexander avenges Darius when the two assassins tell him of their deed: “When he heard, he commanded that they be bound and crucified by the tomb of Darius” (Ὁ δὲ ἀκούσας ἐκέλευσε δεθῆναι αὐτοὺς καὶ παρὰ τὸν τάφον Δαρείου ἀνασταυρωθῆναι).²¹³ Alexander had sworn by the health of his mother to make the assassins conspicuous. The assassins did not understand his meaning and object to his judgment. He responds, “You will be conspicuous and eminent to all people while you are suspended on the cross” (ἔσεσθε δὲ περιφανεῖς καὶ διάσημοι πᾶσιν ἀνθρώποις ἐπὶ τὸν σταυρὸν κρεμασθέντες).²¹⁴

4 Rhetors

4.1 Aelius Aristides (Nov. 17, 117-ca 179)²¹⁵

Aelius writes in his oration entitled *To Plato: In Defense of the Four*²¹⁶ that the Athenians sent Cimon away and would not listen to him for ten years and that Dionysius refused to listen to Plato who, however, was not permitted to leave Sicily.

This very inability to depart, but being forced to remain and almost to be crucified [nailed] there was your terrible misfortune.

²¹² Ps. Callisthenes *Historia Alexandri Magni* recensio ε 15.3 (56,9-11 Trumpf). In Recensio Byzantina poetica 1769-70 (= 1.37 Reichmann) Alexander defends his actions because of their accusations against him (Ἀνασταυρῶ τοῖνυν ὑμᾶς ἐμοὶ προσεπελθόντας ἀνδρὶ ληστῇ τυγχάνοντι καὶ κακοτρόπῳ φύσει). In line 1779-80 (= 1.37 Reichmann), because of their fear of the cross, he revokes their punishment (Ἄνδρες, ἐδειλιάσατε σταυροῦ τὴν τιμωρίαν, / ἐμοὶ καθικετεύοντες ζωὴν ὑμῖν χαρίσαι). In 1833 (= 1.38 Reichmann) he writes a letter to Darius protesting his malicious threat of crucifixion (Κακίστως γράφεις θάνατον σταυροῦ προσευχεῖν μοι).

²¹³ Ps. Callisthenes *Historia Alexandri Magni* (Recensio α) 2.21.24 (95,20-1 Kroll). In Recensio L 2.23.4 (104,24-5 Thiel) he writes his mother Olympia a letter and tells her he crucified the assassins at Darius's tomb (τοὺς δὲ ἀνελόντας Δαρεῖον ἐκέλευσα ἀνασταυρωθῆναι ἐν τῷ τάφῳ Δαρείου).

²¹⁴ Ps. Callisthenes *Historia Alexandri Magni* (Recensio α) 2.21.26 (96,6-7 Kroll). Recensio β 2.21 (118,6-7 Bergson) adds this detail: καὶ οἱ μὲν κάκιστοι φονεῖς ἀνασταυροῦνται ἐπὶ τὸν τάφον Δαρείου (and those evil murderers were crucified by the tomb of Darius). In recensio ε 18.7 (73,12-74,20 Trumpf) he has them crucified before the gates of the city (παρὰ τοὺς πύλεις αὐτοὺς ἀνασκολοπισθῆναι πρὸ τῆς πύλης τῆς πόλεως). In Recensio E 69.3 a different verb is used for the suspension of the two assassins (Καὶ ὄρισε καὶ ἐκρέμασάν τους).

²¹⁵ Aelius Aristides, *The Complete Works. Orations I-XVI*, vol. 1, trans. C. A. Behr, Leiden 1986, 1-4.

²¹⁶ The four are Miltiades, Themistocles, Pericles, and Cimon whom Plato criticized in the *Gorgias*.

ἀλλὰ τοῦτ' ἦν ἡ δεινὴ συμφορὰ τὸ μὴ ἐξεῖναι ἀπελθεῖν, ἀλλὰ μένειν πρὸς βίαν καὶ καὶ μονονοῦ προσηλωθῆναι.²¹⁷

The scholiast to this passage writes: προσηλωθῆναι] ἐσταυρωθῆναι. μεγίστη δὲ ἦν τιμωρία τὸ προσηλωθῆναι (to be nailed. to be crucified, being nailed was the supreme punishment).²¹⁸ This was presumably equivalent to the *sum-mum supplicium* in Roman texts.

4.2 Aelius Herodianus (II C.E.)

Herodian, in his *De prosodia catholica* tells a version of a story of Lycophron in which a Trojan captive named Setaia persuades the Greeks to burn their ships near Sybarus. They crucified her (ἦν δὲ μία τῶν αἰχμαλώτων, ἦν πείσασαν τὰς ἄλλας τῶν Ἑλλήνων ἐμπρῆσαι τὰς ναῦς αὐτοὶ ἐσταύρωσαν).²¹⁹ In Lycophron's text she burns the ships herself and is chained to a rock (... γυιούχοις πέδαις / οἴκτιστα χαλκείησιν ὠργυιμένη [with her limbs pitifully outstretched by bronze fetters]) and left to die.²²⁰

4.3 Libanius (314-ca 393)

In his Oration 15 to Julian, Libanius makes a rhetorical usage of crucifixion. The context is Julian's difficult experiences with Antioch.²²¹ The orator protests that Julian is speaking against the city as if it were unholy and Julian's enemy, even though it should be grateful because it did not die.

I would have told you, "Sire you are not being fair. You have devised a punishment worse than death and then gloss over the matter. Do not give me any favours like this. Do not make my life a thing of shame and then let me live, but crucify me first, or drown me."

²¹⁷ Aelius Aristides Or. 3.378 (P. Aelii Aristides opera quae exstant omnia, vol. 1/3, ed. F. W. Lenz and C. A. Behr, Leiden 1978, 423,15-6 = Or. 46 (II, 305,13-5 Dindorf). Trans. of C. A. Behr, Aelius Aristides, Complete Works, vol. 1, Leiden 1986, 223.

²¹⁸ Scholia in Aelium Aristidem 232,13 (Jebb page) (Aristides III, 678,11-2 Dindorf). Dindorf notes the scholia are found in two manuscripts (one Meermanianus and the other a Monacensis). Cf. his minimal comments in Aristides I, Leipzig 1829, vii. The scholia are ultimately based on the rhetor Sopator (IV C.E.) according to Dickey, Ancient Greek Scholarship, 69-70. She notes, with regard to *Orations* 1-3, that Dindorf's edition is untrustworthy and that Frommel's is better.

²¹⁹ Herodianus *De prosodia catholica* (Grammatici Graeci 3/1, 276 Lenz).

²²⁰ Lycophron *Alexandra* 1075-9.

²²¹ On these relations, cf. R. Browning, *The Emperor Julian*, Berkeley/Los Angeles 1976, 144-58. Julian's *Misopogon* is a satire of his relationship with the citizens. Browning, *ibid.*, 237 notes that Or. 15 was composed in 365 and probably never delivered.

ἐγὼ δὲ εἶπον ἄν σοι· εἰρωνεύη, βασιλεῦ, καὶ μείζω θανάτου τιμωρίαν εὐρὼν ὑποχορίζῃ τὸ πρᾶγμα. μή μοι χαρίζου τὰ τοιαῦτα μηδ' ἐπονείδιστόν μοι ποιῶν τὸν βίον ἐπίτρεπε ζῆν, ἀλλ' ἀνασταύρωσον, καταπόντισον.²²²

Clearly real crucifixion is not a serious possibility for an entire city in an oration probably composed after Julian's death.

4.4 Anonymous Rhetor: Rhetorical Problems in Status Theory

An anonymous rhetorician described a fictional case in his treatise:

Ten individuals plotted to kill a tyrant. One of them revealed it, and the nine were crucified, but the remaining person became a friend of the tyrant. And after this he killed the tyrant. He asks for a reward. The children of the dead men argue against him.

Δέκα τινὲς συνεβουλευσάντο, ἵνα ἀποκτείνωσι τύραννον· ὁ εἷς ἐξ αὐτῶν ἐμήνυσε, καὶ οἱ μὲν ἐννέα ἐσταυρώθησαν, ὁ δὲ λοιπὸς γέγονε φίλος τοῦ τυράννου· καὶ μετὰ τοῦτο ἀνεῖλε τὸν τύραννον· καὶ αἰτεῖ τὴν δωρεάν· οἱ δὲ παῖδες τῶν θανόντων ἀντιλέγουσιν.²²³

The treatise is not dated by Christian Walz, the editor, so it is impossible to know how old the tradition is. Quintilian discusses the status of “quantity”: “quantity is sometimes concerned with conjectural bases ... and sometimes with qualitative bases, as in the question what reward or punishment it would be just to assign to some particular person” (*quantitas modo ad coniecturam referatur, ... modo ad qualitatem: quanta poena quempiam quantove praemio sit adfici iustum*).²²⁴ Presumably that is the problem the anonymous rhetor is posing to his students in the text above.

4.5 Anonymous Rhetor: On Figures of Discourse

Another rhetorician discusses the figure of ridicule, a variety of irony:²²⁵

RIDICULE. Ridicule is discourse that attacks something not because it is of no account, but rather because it admires it as something worthy; you perhaps might reproach the cross and death.

ΔΙΑΣΥΡΜΟΣ.

Διασυρμός ἐστι λόγος διαβάλλων τι οὐκ ἐπὶ τῷ ἀποφανλίσαι, ἀλλὰ μᾶλλον ὡς ἀξιόπιστον θαυμάζων, οἷον τάχα ἂν ὀνειδίσαις τὸν σταυρὸν καὶ τὸν θάνατον.

²²² Libanius Or. 15.56 (BiTeu II, 141,14-8 Foerster), trans. of Libanius, Selected Orationes, vol. 1, LCL, ed. and trans. A. F. Norman, Cambridge, MA/London 1969, 185.

²²³ Rhetorica Anonyma Problemata rhetorica in status 67 (Rhetores graeci 8, 413,10-4 Walz). C. Walz, ibid., 400-1 discusses the problem of the anonymous authorship of this treatise.

²²⁴ Quint. 3.6.42. Trans. of Quintilian, Institutio oratorio. Books I-III, ed. and trans. H. E. Butler, Cambridge, MA/London 1920, 431.

²²⁵ Rhetorica Anonyma Περὶ τῶν σχημάτων τοῦ λόγου 22 (Rhetores graeci 3, 180,30-181,3 Spengel).

This is a rhetorical trope, a term defined by Cicero to mean *verborum immutatio* (substitution of words/verbal images).²²⁶ Ridicule is an example of rhetorical irony.²²⁷ Isidore defines it so: Irony ... It is created either when we praise something that we want to denounce or when we denounce something that we want to praise (*Ironia ... Fit autem aut cum laudamus eum quem uituperare uolumus, aut uituperamus quem laudare uolumus*).²²⁸ Since this rhetor discusses Christian themes, the tradition about ridicule may not be pagan.²²⁹

5 Philosophers

5.1 Plato (ca 429-347 B.C.E.)²³⁰

Plato's *Gorgias* contains an argument against Socrates by Polus:

If a man is caught in a criminal plot to make himself tyrant, and when caught is put to the rack and mutilated and has his eyes burnt out and after himself suffering and seeing his wife and children suffer many other signal outrages of various kinds is finally crucified or burned in a coat of pitch, will he be happier than if he escaped arrest, established himself as a tyrant and lived the rest of his life a sovereign in his state, doing what he pleased, an object of envy and felicitation among citizens and strangers alike?

ἐὰν ἀδικῶν ἀνθρώπος ληφθῇ τυραννίδι ἐπιβουλεύων, καὶ ληφθεὶς στρεβλῶται καὶ ἐκτέμνηται καὶ τοὺς ὀφθαλμοὺς ἐκκᾶηται, καὶ ἄλλας πολλὰς καὶ μεγάλας καὶ παντοδαπὰς λύβας αὐτός τε λωβηθεὶς καὶ τοὺς αὐτοῦ ἐπιδὼν παῖδάς τε καὶ γυναῖκα τὸ ἔσχατον ἀνασταυρωθῇ ἢ καταπιττωθῇ, οὗτος εὐδαιμονέστερος ἔσται ἢ ἐὰν διαφυγὼν τύραννος καταστῇ καὶ ἄρχων ἐν τῇ πόλει διαβιῇ ποιῶν ὅτι ἂν βούληται, ζηλωτὸς ὢν καὶ εὐδαιμονιζόμενος ὑπὸ τῶν πολιτῶν καὶ τῶν ἄλλων ξένων; ταῦτα λέγεις ἀδύνατον εἶναι ἐξελέγχειν;²³¹

It is difficult to tell if the intended punishment is crucifixion or exposition (and not impalement which was not used in ancient Greece).²³² Since there was a tradition in that period of Greek history of nailing criminals to a plank, that is probably Plato's intention here (intro. § 2.3). Glaucon, in his argument about justice with Socrates in the *Republic*, affirms:

What they will say is this: that such being his disposition the just man will have to endure the lash, the rack, chains, the branding-iron in his eyes, and finally, after every extremity

²²⁶ Cic. Brut. 69. H. Lausberg, *Handbuch der literarischen Rhetorik. Eine Grundlegung der Literaturwissenschaft*, Stuttgart ³1990, 282.

²²⁷ Lausberg, *Handbuch*, § 583.

²²⁸ Isid. Orig. 2.21.41.

²²⁹ In, e.g., *Rhetorica Anonyma* Περὶ τῶν σχημάτων τοῦ λόγου 16 (179,6.9 Spengel) the words Χριστιανῶν and Χριστέ appear.

²³⁰ For the date, cf. J. Annas, Plato (1), ⁴OCD, 1155-8, esp. 1155.

²³¹ Plato *Gorgias* 473B-D. Trans. of Hengel, *Crucifixion*, 27.

²³² Samuelsson, *Crucifixion*, 65 (skeptical). See Halm-Tisserant, *Realités* 14, § 10.5 below and intro. § 2.1.

of suffering, he will be crucified, and so will learn his lesson that not to be but to seem just is what we ought to desire.

ἐροῦσι δὲ τὰδε, ὅτι οὕτω διακείμενος ὁ δίκαιος μαστιγώσεται, στρεβλώσεται, δεδήσεται, ἐκκαυθήσεται τὸ φθαλμῷ, τελευτῶν πάντα κακὰ παθῶν ἀνασχινδύλευθήσεται καὶ γινώσεται ὅτι οὐκ εἶναι δίκαιον ἀλλὰ δοκεῖν δεῖ ἐθέλειν.²³³

The word translated “crucified” can also be translated “transfixed.” Timaeus the grammarian in his *Lexicon Platonicum* defines it so Ἀνασχινδύλευθῆναι. ἀνασκολοπισθῆναι, ἀνασταυρωθῆναι, which probably are two synonyms for “be crucified.”²³⁴ This is confirmed by Atticus who interprets it as crucifixion.²³⁵ Ernst Benz assumes that Plato refers to crucifixion, but does not examine the semantic problems.²³⁶ It is likely that Plato envisions something like the *apotympanismos* (i.e., exposition) of the skeletons found in Phalerum and Delos. Demosthenes, being from the same era as Plato, provides the best context for interpreting Plato’s texts above.²³⁷

5.2 Epictetus (mid I-II C.E.)

Epictetus, the Stoic who had been a slave in Rome, makes several references to crucifixion. After his discussion of the court case concerning some land of a friend (Heracleitus) who had provoked the judges he counsels the reader:

For if you wish to be crucified, wait and the cross will come; but if reason decided that you should answer the summons and do your best to have what you say carry conviction, you must act in accordance therewith, but always maintaining what is your own proper character.

εἰ γὰρ σταυρωθῆναι θέλεις, ἔκδεξαι καὶ ἥξει ὁ σταυρός· εἰ δ’ ὑπακούσαι λόγος αἰρεῖ καὶ πείσαι τό γε παρ’ αὐτόν, τὰ ἐξῆς τοῦτ’ ποιητέον τηροῦντι μέντοι τὰ ἴδια.²³⁸

²³³ Plato Resp. 361E-362A. ET of Plato, Republic, vol. 5, LCL, trans. P. Shorey, Cambridge, MA 1930, 125. Shorey in his note writes “Or strictly ‘impaled’.” Halm-Tisserant, *Realités*, 15 thinks it means “impaled” based on the etym. “torn apart” (σχινδύλησις).

²³⁴ Timaeus *Lexicon Platonicum*, s.v. (975b Dübner). It was compiled sometime between II and V C.E. He is unreliable. Cf. A. R. Dyck, *Notes on Platonic Lexicography in Antiquity*, HSCP 89 (1985) 75-88, esp. 87. The Suda has at A § 2071 Ἀνασχινδύλευθῆναι: ἀνασκολοπισθῆναι, ἀνασταυρωθῆναι. ὁ ἐνεστὼς Ἀνασκολοπιζῶ (which does not fundamentally clarify the meaning of the term [for which see § 10.4 below]).

²³⁵ See § 5.3 below.

²³⁶ E. Benz, *Der gekreuzigte Gerechte bei Plato, im Neuen Testament und in der alten Kirche*, AAWLM.G 12, Mainz 1950, 1031-74, esp. 1035-6.

²³⁷ Intro. § 2.3 and cp. Demosthenes in § 1.5 above. For exposition see also intro. § 2.2.

²³⁸ Epictetus *Diatr.* 2.2.20, *Trans. of Epictetus, The Discourses as Reported by Arrian, the Manual, and Fragments*, LCL, ed. and trans. W. A. Oldfather, Cambridge, MA/London 1925, 1.229-31.

Writing in the Roman era, Epictetus knows well the Roman practice of crucifixion. He taunts the individual who has studied but not decided to live by the principles of Stoic philosophy:

... you are afraid that you will not have a professional cook, you will not have another servant to buy the delicacies, another to put on your shoes for you, another to dress you, others to give you your massage, others to follow at your heels, in order that when you have undressed in a bath and stretched yourself out like men who have been crucified, you may be massaged on this side and that...

... δέδοικας μὴ οὐ σχῆς μάγειρον, μὴ οὐ σχῆς ἄλλον ὀψωνητήν, ἄλλον τὸν ὑποδήσοντα, ἄλλον τὸν ἐνδύσοντα, ἄλλους τοὺς τρίψοντας, ἄλλους τοὺς ἀκολουθήσοντας, ἵν' ἐν τῷ βαλανείῳ ἐκδυσάμενος καὶ ἐκτείνας σεαυτὸν ὡς οἱ ἐσταυρωμένοι τρίβῃ ἔνθεν καὶ ἔνθεν ...²³⁹

Crucified individuals were stretched out on *patibula*.

5.3 Atticus (ca 150-200 C.E.)

Atticus, in a defense of Aristotle's doctrine of happiness, attacks Plato's theory:

... though poverty and disease and infamy and tortures and pitch and the cross, yea, though all the disasters of tragedy come in together like a flood, still the righteous man is happy and blessed.

... ἀλλὰ καὶ πενία, καὶ νόσος, καὶ ἀδοξία, καὶ βάσανοι, καὶ πίττα καὶ σταυρός, καὶ τὰ ἐκ τῆς τραγωδίας, ἅμα πάντα ἐπιρροῇ, ἔτι ὁ δίκαιος εὐδαίμων καὶ μακάριος.²⁴⁰

This transforms Plato's rare word ἀνασχινδυλευθήσεται into σταυρός (cross), which in the second century probably brought a "T" shape to the minds of Atticus's readers.

5.4 Diogenes Laertius (Second half of III C.E.?)

Diogenes Laertius recounts a tradition of Diogenes the Cynic:

Noticing a lad one day throwing stones at a cross (gibbet), "Well done, he said, "you will hit your mark."

εασάμενός ποτε μειράκιον λίθους βάλλον ἐπὶ σταυρόν, "εὖγε," εἶπε, "τεύξῃ γὰρ τοῦ σκοποῦ."²⁴¹

²³⁹ Epictetus Diatr. 3.26.21-2, Trans. of Oldfather, Epictetus, 2.233-5. Cp. Artemidorus Onir. 1.76 (τὴν τῶν χειρῶν ἔκτασιν) and Lucian Prom. 1 (ἐκπετασθεῖς τὸ χεῖρε).

²⁴⁰ Atticus frag. 2.16 (CUFr 44,115-8 des Places) = Eus. P.E. 15.4.16 (Eusebius Werke VIII, 354,6-8 Mras). Trans. of Eusebius, Preparation of the Gospel, vol. 1-2, trans. E. H. Gifford, Grand Rapids, MI 1981, 2.858.

²⁴¹ Diogenes Laertius 6.45. Trans. of Diogenes Laertius, Lives of Eminent Philosophers, vol. 1-2, LCL, ed. and trans. R. D. Hicks, Cambridge, MA/London 1925, 2.47.

Presumably Diogenes intended the boy to understand that one day he would be crucified.

5.5 *Ps. Diogenes*

One of Ps. Diogenes' letters, dated from I B.C.E. or earlier,²⁴² addresses the topic of crucifixion in the context of his critique of the death penalty:

Are not then many suspended on crosses, many have their throats cut by the executioner, many drink poison at the hands of the public executioner, and others are on the wheel, clearly they appear to be unjust; but what consequently should be attempted, wretched people – to discipline these individuals or to kill them?

οὐκ οὖν πολλοὶ μὲν ἐπὶ τῶν σταυρῶν κρέμονται, πολλοὶ δὲ ὑπὸ τοῦ δημίου ἀπεσφαγμένοι, ἕτεροι δὲ φάρμακον πίνοντες δημοσίᾳ, οἱ δ' ἐπὶ τοῦ τροχοῦ, δηλονότι ἄδικοι δόξαντες εἶναι; πότερον οὖν ἐπιχειρητέον, ὃ κακαὶ κεφαλαί, παιδεῦσαι τούτους ἢ ἀποκτεῖναι;²⁴³

The image of being suspended on crosses excludes impalement in this instance. In a letter to Aristippus which may date to II C.E., Ps. Diogenes defends his poverty and criticizes Aristippus's banquets and his awareness of the practice of Dionysus of Syracuse:

... I mean the occasions when you are eating and drinking at extravagant dinners, the likes of which would never be held in my presence, when you see some men being whipped, others fixed to a cross, others driven to the stone quarries, and the wives of some taken away for wanton purposes ...

... ὁπότε ἐσθίων καὶ πίνων τὰ πολυτελῆ δεῖπνα καὶ ἃ μήποτε ἡμῖν παρεῖη ἀνθρώπους ἐκάστοτε τοὺς μὲν μαστιγουμένους, τοὺς δὲ ἀνασκολοπιζομένους, τοὺς δὲ εἰς τὰς λατομίας ἀπαγομένους βλέπεις, καὶ τῶν μὲν γυναικας ἀφαιρουμένας εἰς ὕβριν ...²⁴⁴

Because of the use of the verb in Philo, Lucian, and Celsus, crucifixion is probably the intention of Ps. Diogenes.

6 *Pagan Critics of the New Testament*

6.1 *Celsus*

Celsus developed a number of objections to the crucifixion. One objection, in which a Jew speaks using a text of Homer, mocked Jesus' blood:

What does he say while his body is being crucified? Was it like "Ichor such as flows in the blessed gods"?

²⁴² A. Malherbe, *The Cynic Epistles. A Study Edition*, Missoula, Montana 1977, 17.

²⁴³ Diogenes Ep. 28.3.

²⁴⁴ Diogenes Ep. 32.2. trans. slightly modified of B. Fiore in Malherbe, *The Cynic Epistles*, 139. On the dating, cf. Malherbe, *ibid.*, 17.

τί φησι καὶ ἀνασκολοπιζομένου τοῦ σώματος; ποῖος ἰχώρ, οἷός πέρ τε ῥέει μακάρεσσι θεοῖσιν;²⁴⁵

Horacio E. Lona notes that Celsus may be reacting to Justin's claim that Christ's blood was not of human origin, but from divine strength.²⁴⁶ An impaled person (who dies immediately) cannot speak.

Celsus's Jew lists a number of Greek figures who descended into Hades and then reappeared (as if resurrected from the dead) and then asks:

But one must examine this: whether anyone who truly died ever rose in the same body. Or do you suppose that the exploits of these others both are and seem to be "myths," but in your case the "dénoûment of the drama"—that is, his utterance while on the stake when he was breathing his last, and "the earthquake" and the darkness—has found form as honorable and credible? [Matt 27:50, 51, 45]²⁴⁷ Because when he was alive he didn't help himself [Matt 27:42]; dead, he arose, and he showed the signs of his punishment, how his hands had been pierced (John 20:20, 25).

ἀλλ' ἐκεῖνο σκεπτέον, εἴ τις ὡς ἀληθῶς ἀποθανὼν ἀνέστη ποτὲ αὐτῷ σώματι· ἢ οἶσθε τὰ μὲν τῶν ἄλλων μύθους εἶναι τε καὶ δοκεῖν, ὑμῖν δὲ τὴν καταστροφὴν τοῦ δράματος εὐδχημόνως ἢ πιθανῶς ἐφευρήσθαι, τὴν ἐπὶ τοῦ σκόλοπος αὐτοῦ φωνήν, ὅτ' ἀπέπνυι, καὶ τὸν σεισμὸν καὶ τὸν σκότον; ὅτι δὴ ζῶν μὲν οὐκ ἐπήρκεσεν ἑαυτῷ, νεκρὸς δ' ἀνέστη καὶ τὰ σημεῖα τῆς κολάσεως ἔδειξε καὶ τὰς χειρὰς ὡς ἦσαν πεπερονημέναι ...²⁴⁸

It is clear that Celsus did not understand Jesus' death to be an impalement since he spoke on the cross. His reference to the piercing of Jesus' hands probably implies the existence of a *patibulum*. Celsus, in another text, mocked Jesus for "greedily" slaking his thirst while being crucified.²⁴⁹ Celsus' Jew posed this difficulty:

²⁴⁵ Origen C. Cels. 2.36 (SVigChr 54, 110,24-6 Marcovich). Homer Il. 5.340 (quoted in 1.66 also). Cp. Cook, New Testament, 52 and *ibid.*, 50-4 on the passion narrative in Celsus's critique. Celsus refers to Jesus' dishonorable arrest and shameful death (δεδεμένος ἀτιμότατα ἢ κεκολασμένος αἴσχιστα) in 6.10 (387,30 Marcovich).

²⁴⁶ Die ›Wahre Lehre‹ des Kelsos. Übersetzt und erklärt von H. E. Lona, Freiburg et al. 2005, 149 with ref. to Justin 1 Apol. 32.9 (ἐκ θείας δυνάμεως), Dial. 54.2, 63.2 (ἐκ θελήματος θεοῦ), 76.2. Whether Celsus knew of Justin's work is a problematic issue. Cf. Cook, New Testament 7, 19-20.

²⁴⁷ The trans. of this sentence is from M. M. Mitchell, Origen, Celsus and Lucian on the "Dénoûment of the Drama" of the Gospels, in: Reading Religions in the Ancient World. Essays Presented to Robert McQueen Grant on his 90th Birthday, ed. D. E. Aune and R. D. Young, NovTSup 125, Leiden 2007, 215-36, esp. 218. Cp. Cook, New Testament, 51.

²⁴⁸ Origen C. Cels. 2.55 (127,16-22 Marcovich).

²⁴⁹ Origen C. Cels. 2.37 (111,16-8 Marcovich): Jesus hastened greedily to drink the vinegar (Mt 27:34, 48) and the gall, and could not endure his thirst, as even an ordinary person often endures it (τὸ ὄξος καὶ τὴν χολὴν ὀνειδίξει τῷ Ἰησοῦ ὡς χανδὸν ἐπὶ τὸ πιεῖν ὀρμημένῳ καὶ μὴ διακατερήσαντι τὴν δίψαν, ὡς καὶ ὁ τυχὼν ἀνθρώπος πολλάκις διακαυτερεῖ).

If then he was under such an obligation to show his divinity, he should have disappeared suddenly far from the stake [cross].

εἰ δ' οὖν τό γε τοσοῦτον ὄφειλεν εἰς ἐπίδειξιν θεότητος, ἀπὸ τοῦ σκόλοπος γοῦν εὐθὺς ἀφανῆς γενέσθαι.²⁵⁰

Celsus believed Jesus had been nailed to the cross:

After his death, as Celsus thinks, Jesus emitted an image of his wounds received on the cross, although he didn't truly exist with the wounds.

Ἦν οὖν καὶ ὁ Ἰησοῦς μετὰ θάνατον, ὥς μὲν ὁ Κέλσος οἶται, φαντασίαν ἐξαποστέλλων τῶν ἐπὶ τῷ σταυρῷ τραυμάτων καὶ οὐκ ἀληθῶς τοιοῦτος ὢν τραυματίας.²⁵¹

Although he rejects the historicity of John 20:27, Celsus does not deny the reality of the signs of his crucifixion.²⁵² Apparently σκόλοψ (*skolops*) and σταυρός (*stauros*) are synonyms or near synonyms for Celsus, since he uses them interchangeably. Celsus, in a critique of Gnostic Christians, writes:

And everywhere there [Gnostic texts] one finds the tree of life and the resurrection of the flesh from a tree, because I think that their teacher was nailed to the cross and by craft was a carpenter. So that if by chance he had been thrown from a cliff, or thrust into an abyss, or strangled by a noose, or if he had been a shoemaker or stonemason or ironworker, there would have been above the heavens a cliff of life, an abyss of resurrection, a rope of immortality, a stone of blessing, an iron of love, or a holy leather. What drunken old woman lulling a child to sleep by singing a fable would not be ashamed to whisper such stories?

πανταχοῦ δὲ ἐκεῖ τὸ τῆς ζωῆς ξύλον καὶ ἀνάστασιν σαρκὸς ἀπὸ ξύλου, διότι οἶμαι ὁ διδάσκαλος αὐτῶν σταυρῷ ἐνηλώθη καὶ ἦν τέκτων τὴν τέχνην. ὥς εἰ ἔτυχεν ἐκεῖνος ἀπὸ κρημνοῦ ἐρριμμένος ἢ εἰς βάραθρον ἐωσμένος ἢ ἀγχόνη πεπνυμένος ἢ σκυτοτόμος ἢ λιθοξόος ἢ σιδηρεύς, ἦν ἂν ὑπὲρ τοὺς οὐρανοὺς κρημνὸς ζωῆς ἢ βάραθρον ἀναστάσεως ἢ σχοινίον ἀθανασίας ἢ λίθος μακάριος ἢ σίδηρος ἀγάπης ἢ σκύτος ἁγίου [έστιν]. ἢ τίς γραῦς ἐπὶ τῷ βαυκαλιῇ παιδίον <μεθύουσα> μῦθον ἐπάδουσα τοιαῦτα ψιθυρίζειν οὐκ ἂν ἤσχυνθη;²⁵³

He attempts, by an *argumentum ad absurdum*, to show the incoherence of Christian metaphor.²⁵⁴ It seems doubtful that Celsus was familiar with Rev 22:2, but he certainly knew of the image. Celsus knows Gnostic Christians who use Paul's words in Gal 6:14:

²⁵⁰ Origen C. Cels. 2.68 (138,18-20 Marcovich). Cp. Cook, New Testament, 53. Lona, Die ›Wahre Lehre‹ des Kelsos, 164-5 argues, on the basis of Matt 27:42 and Mark 15:32, that the text should be translated, "if he was so great ..." There may well be a reference to the Gospels, but the translation above seems to fit the syntax better.

²⁵¹ Origen C. Cels. 2.61 (132-,5-7 Marcovich). Marcovich does not think the words are a quotation of Celsus. Nevertheless Origen attributes the argument to Celsus. Cf. Cook, New Testament, 56.

²⁵² Lona, Die ›Wahre Lehre‹ des Kelsos, 164.

²⁵³ Origen C. Cels. 6.34 (410,23-411,4 Marcovich). Cf. Cook, New Testament, 50-1.

²⁵⁴ Lona, Die ›Wahre Lehre‹ des Kelsos, 348.

And you will hear those who disagree so violently and by their strife refute themselves to their utter disgrace, saying “The world is crucified unto me and I to the world.”

πάντων δέ, φησὶν, ἀκούσει τῶν ἐπὶ τοσοῦτον διεστηκότων καὶ σφᾶς αὐτοὺς ταῖς ἔρσιιν αἰσχίστα διελεγχόντων λεγόντων τό· ‘ἐμοὶ κόσμος ἐσταύρωται καὶ γὼ κόσμῳ’.²⁵⁵

Irenaeus describes Valentinians who used Paul’s formulation for their concept of an emanation called Horos.²⁵⁶ Celsus makes a general reference to the persecution of Christians in an attribution of sectarian (Ophite) doctrines to Christianity in general:

It is because of such gross deceit and those wonderful counselors and the miraculous words addressed to the lion and the animal with double form and the one shaped like an ass and the other superhuman doorkeepers, whose names you poor unfortunates have wretchedly learnt by heart so that terrible madness has taken hold of you that you are ... led away and crucified.

<διὰ> τὴν μὲν δὴ τοιάνδε ἀπάτην καὶ τοὺς θαυμαστοὺς ἐκείνους συμβούλους καὶ τὰ δαιμόνια ῥήματα τὰ πρὸς τὸν λέοντα καὶ τὸν ἀμφίβιον καὶ τὸν ὄνοειδῆ καὶ τοὺς ἄλλους [καὶ τοὺς] θεσπεσίους θυρωροὺς, ὧν τὰ ὀνόματα ἀθλίως ἐκμανθάνοντες οἱ δύστηνοι κακῶς δαιμονᾶτε, <ἀπάγεσθε> καὶ ἀνασκολοπίεσθε.²⁵⁷

Whether Celsus knows of contemporary crucifixion of Christians is doubtful.²⁵⁸ He thinks if the Christians wanted to invent a new doctrine that they should have chosen one of the Greek figures who died nobly and of whom a divine myth can be accepted (περὶ ἄλλον τινὰ τῶν γενναίως ἀποθανόντων καὶ θεῖον μῦθον δέξασθαι δυναμένων). He mentions Heracles, Asclepius and Orpheus “who by common consent had a holy spirit and who himself died violently” (ἄνδρα ὁμολογουμένως ὁσίῳ χρησάμενον πνεύματι καὶ αὐτὸν βιάως ἀποθανόντα).²⁵⁹ Epictetus is more admirable than Jesus.

What about Epictetus? Who when his master was twisting his leg smiled a little and said intrepidly, “You are breaking it” and when he had broken it, he said, “did I not tell you that you were breaking it?” What did your god say that was similar while being punished? If you should have proposed the Sibyl, whom some of you use, as the child of God, it would have been more reasonable. But you can only interpolate at random in her verses

²⁵⁵ Origen C. Cels. 5.64 (375,1-4 Marcovich). Trans. of Origen, *Contra Celsum*, trans. with intro. and notes by H. Chadwick, Cambridge 1953, 314.

²⁵⁶ Iren. Haer. 1.3.5. These are the views, presumably, of Ptolemy and his followers (cf. Haer. 1.pr.2). Cf. Lona, *Die »Wahre Lehre« des Kelsos*, 313. Clement Strom. 2.20.104.3 uses the verse in his discussion of the true Gnostic and cp. ibid. 4.3.12.6.

²⁵⁷ Origen C. Cels. 7.40 (493,20-5 Marcovich). Trans. of Chadwick, Origen, 428 (Chadwick thinks the lacuna marked by the ellipsis is larger than one word (ἀπάγεσθε).

²⁵⁸ Cf. chapt. 2, first paragraph.

²⁵⁹ Origen C. Cels. 7.53 (505,1-7 Marcovich).

many blasphemous things, and you present as god he who experienced an infamous life and miserable death.

Οὐκοῦν Ἐπίκτιτον; Ὅς τοῦ δεσπότου στρεβλοῦντος αὐτοῦ τὸ σκέλος ὑπομειδιῶν ἀνεκπλήκτως ἔλεγε· «Κατάσσεις», καὶ κατὰξαντος «Οὐκ ἔλεγον», εἶπεν, «ὅτι κατάσσεις»; Τί τοιοῦτον ὁ ὑμέτερος θεὸς κολαζόμενος ἐφθέγγετο; Ὑμεῖς δὲ καὶ Σίβυλλαν, ἣ χρώνται τινες ὑμῶν, εἰκότως ἂν μᾶλλον προσετίθασθε ὡς τοῦ θεοῦ παῖδα· νῦν δὲ παρεγγράφειν μὲν εἰς τὰ ἐκείνης πολλὰ καὶ βλάσφημα εἰκῇ δύνασθε, τὸν δὲ βίῳ μὲν ἐπιρρητοτάτῳ θανάτῳ δὲ οἰκτίστῳ χρησάμενον θεὸν τίθεσθε.²⁶⁰

Celsus by implication mocks Jesus' words at his death through the comparison with Epictetus's courage. Crucifixion is a "miserable death," and the comparison with Heracles, Asclepius and Orpheus is designed to show that Christ did not die a noble death. God does not help the martyrs when they are crucified, according to Celsus:

Do you not see therefore, O most excellent man, that anyone who stands before your demon and not only blasphemes him and banishes him from land and sea, but also binds you who have been consecrated to him like a statue, leads you away and crucifies you. And the demon, or as you say, the child of God does not avenge himself on him in any way.

οὐχ ὁρᾷς οὖν, ὃ βέλτιστε, ὅτι καὶ τὸν σὸν δαίμονα καταστάς τις οὐ βλάσφημεῖ μόνον, ἀλλὰ καὶ πάσης γῆς καὶ θαλάττης ἐκκηρύττει καὶ σὲ τὸν καθωσιωμένον ὥσπερ ἄγαλμα αὐτῷ δῆσας ἀπάγει καὶ ἀνασκολοπίζει· καὶ ὁ δαίμων ἦ, ὡς σὺ φῆς, ὁ τοῦ θεοῦ παῖς οὐδὲν αὐτὸν ἀμύνεται;²⁶¹

Perhaps Celsus knows of Peter's crucifixion or those during the Neronian persecution, but it is idle to speculate. Lona remarks that without knowing it Celsus expresses a central aspect of the Christian theology of martyrdom in which the martyr's suffering is an imitation of that of Christ.²⁶²

6.2 Porphyry

Methodius of Olympus, who wrote a treatise against Porphyry (*Contra Porphyrium*), preserves a tradition of pagans who objected to the crucifixion:

How did it help us that the Son of God was made flesh on earth and became a person? And why did he endure suffering in the form of the cross [or in the manner of the cross] and not some other punishment? And of what use was the cross?

²⁶⁰ Origen C. Cels. 7.53 (505,13-20 Marcovich). Cf. Cook, New Testament, 52.

²⁶¹ Origen C. Cels. 8.39 (553,22-6 Marcovich). Cf. Cook, New Testament, 89-91 on Celsus' frequent references to persecutions of Christians.

²⁶² Lona, Die ›Wahre Lehre‹ des Kelsos, 445.

Τί ὠφέλησεν ἡμᾶς ὁ υἱὸς τοῦ Θεοῦ σαρκωθεὶς ἐπὶ γῆς καὶ γενόμενος ἄνθρωπος; καὶ διὰ τί τῷ τοῦ σταυροῦ σχήματι ἠνέσχετο παθεῖν καὶ οὐκ ἄλλη τι νὺ τιμωρία; καὶ τί τὸ χρήσιμον τοῦ σταυροῦ;²⁶³

This is not a nominal fragment of Porphyry, but it does indicate the attitudes of some pagans toward the crucifixion of an individual who their Christian antagonists claimed was the Son of God.

6.3 The Anonymous Philosopher of Macarius of Magnesia

The tradition of the anonymous philosopher is probably based on the objections of Porphyry, although the philosopher's words are not the *ipsissima verba* of Porphyry.²⁶⁴ The philosopher makes several references to Jesus' crucifixion. Only the index (τίτλος) of this objection survives from Book I: How, treated violently and crucified, did Christ make people believe in him? Πῶς ὑβρισθεὶς καὶ σταυρωθεὶς ὁ Χριστὸς πιστεύειν πρὸς αὐτὸν τοὺς ἀνθρώπους ἐποίησεν).²⁶⁵ The philosopher's assumption seems to be the absurdity of believing in a crucified individual. The index to another objection poses this query: How did Christ endure being crucified with violence (Πῶς ὁ Ἰησοῦς ἠνέσχετο μεθ' ὕβρεως σταυρωθῆναι).²⁶⁶ The text of the objection survives in which the pagan wonders why Christ did not show more power during his trial before Pilate:

But even if Christ had to suffer according to God's commands, he was obliged to endure punishment, yet at least He should have endured His Passion with some boldness, and uttered words of force and wisdom to Pilate His judge, instead of being mocked like any gutter-snipe.

Ὁ δέ γε Χριστὸς εἰ καὶ παθεῖν εἶχε κατ' ἐντολὰς τοῦ Θεοῦ, ἐχρῆν μὲν ὑπομεῖναι τὴν τιμωρίαν, οὐ μὴν ἄνευ παρηγορίας ὑποστῆναι τὸ πάθος, ἀλλὰ σπουδαῖα τινα καὶ σοφὰ διαφθέγγεσθαι πρὸς Πιλάτον τὸν δικαστήν, καὶ μὴ ὡς εἰς τῶν ἐκ τριόδου χυδαίων.²⁶⁷ ὑβρισθῆναι.²⁶⁸

This resembles Celsus's objections above (§ 6.1) about Jesus' sayings while on the cross. In a critique of John 5:46 the philosopher denies that any writ-

²⁶³ A superscript in MS Monac. gr. 498 (X C.E.), p. 81; Methodius of Olympus C. Porph. 1 (GCS Methodius 503, apparatus criticus Bonwetsch) = Porph. C. Christ. frag. 84 Harnack = frag. 105 Ramos Jurado. Cf. Cook, New Testament 160-1.

²⁶⁴ Macarios de Magnésie, Le Monogénès. Édition critique et traduction française, Tome I Introduction générale. Tome II Édition critique, traduction et commentaire, Textes et traditions 7, ed. and trans. R. Goulet, Paris 2003, 1.112-49.

²⁶⁵ Macarius Monogenes 1, index 6 (II, 2,17-18 Goulet). The pagan also refers to John 19:33-4. Cf. Monogenes 2.24.1 (II, 36,205 Goulet). Cf. Cook, New Testament, 180.

²⁶⁶ Macarius Monogenes 3.1 (II, 68,6 Goulet).

²⁶⁷ This as noted by C. Blondel, the original editor, is the third reading in the original (now lost) MS. The first reading was *χριστοῦ*.

²⁶⁸ Macarius Monogenes 3.1.2 (II, 72,19-23 Goulet). Cf. Goulet's comments in Macarius 2.390 and Cook, New Testament, 195-6.

ings survive of Moses. Ezra composed everything that has been ascribed to Moses:

And even if one were to concede that the writing is that of Moses, it cannot be shown that Christ was anywhere called God, or God the Word, or Creator. And pray who has spoken of Christ as crucified?

Εἰ δὲ καὶ Μωσέως δοίη τις εἶναι τὸ γράμμα, οὐ δυνατὸν δειχθῆναι ὡς Θεόν που λελέχθαι ἢ Θεὸν λόγον τὸν Χριστὸν ἢ δημιουργόν. Ὅλως <δὲ> Χριστὸν σταυροῦσθαι τίς εἴρηκεν;²⁶⁹

It is important that the NT authors never assert that the crucifixion itself was prophesied in the OT.²⁷⁰ In an extensive objection to what he sees as contradictory accounts of Jesus' Passion the philosopher mentions (Mark 15:36) the sponge of vinegar that was brought to Jesus while he was being crucified (ὁ μὲν γὰρ ἱστορεῖ, ὡς σταυρωθέντι σπόγγον τις ὄξους πληρώσας προσήνεγκεν).²⁷¹ He also refers to the wine mixed with gall which he would not drink (Matt 27:33-4) and continues with quotations of Mt 27:46, John 19:29-30, Luke 23:46:²⁷²

From this worn out and contradictory story, one can receive it as the statement of the suffering, not of one, but of many... it is plain that this is a fable inconsistent with itself, and either points to many who were crucified, or one who died hard and did not give a clear view of his passion to those who were present.

ἐκ ταύτης τῆς ἐώλου ἱστορίας καὶ διαφώνου ὡς οὐχ ἑνὸς ἀλλὰ πολλῶν πεπονθότων ἔστι λαβεῖν τὸν λόγον. ... φανερόν ὡς ἀσύμφωνος αὕτη μυθοποιία ἢ πολλοὺς σταυρουμένους ἐμφαίνει ἢ ἕνα δυσθανατοῦντα καὶ τὸ σαφὲς τοῖς παροῦσι τοῦ πάθους μὴ παρέχοντα.²⁷³

The philosopher makes two references to Peter's crucifixion in Rome:

Nevertheless it is said that after shepherding the sheep for a few months Peter was crucified, when Jesus had told him that the gates of Hades would not overcome him ...

But Peter also after having received authority to shepherd the sheep was nailed to a cross and crucified.

Ὅμως ἱστορεῖται μὴδ' ὀλίγους μῆνας βοσκήσας τὰ προβάτια ὁ Πέτρος ἐσταυρῶσθαι, εἰρηκότος τοῦ Ἰησοῦ τὰς ἁίδου πύλας μὴ κατισχύειν αὐτοῦ ... οὐ μὴν ἀλλὰ καὶ Πέτρος λαβὼν ἐξουσία βόσκειν τὰ ἄρνια, τῷ σταυρῷ προσηλωθεὶς ἀνασκολοπίζεται.²⁷⁴

²⁶⁹ Macarius Monogenes 3.3.2 (II, 74,17-19 Goulet). Cf. Cook, *New Testament*, 201-2.

²⁷⁰ John 3:14 comes close, but is an analogy and not a prophecy.

²⁷¹ Macarius Monogenes 2.23.2 (II, 34,5-6 Goulet). The philosopher's assumption is that Jesus drank it.

²⁷² Macarius Monogenes 2.23.2-6 (II, 34,4-27 Goulet). Cf. Cook, *New Testament*, 196-8.

²⁷³ Macarius Monogenes 2.23.6 (II, 34,19-20.23-5 Goulet).

²⁷⁴ Macarius Monogenes 3.22.3, 4.4.2 (II, 150,6-8; 246,6-7 Goulet). The second text follows the philosopher's reference to Paul's execution by beheading in Rome (4.4.1 [2.246,4-6 Goulet]). Cf. Cook, *New Testament*, 210-13.

Although this cannot be used for historical evidence, it is intriguing that the philosopher seems to have knowledge of early Christian tradition.²⁷⁵

6.4 Flavius Claudius Julianus (ca Feb. 360 - 26/27 June 363)

Julian, who had been a Christian before turning to paganism, mentions a shield which fell from heaven and a human head that was found on the Capitoline hill. In the course of his attack on Christianity, he questions their devotion to the cross:

And yet, you misguided people, though there is preserved among us that weapon which flew down from heaven, which mighty Zeus or father Ares sent down to give us a warrant, not in word but in deed, that he will forever hold his shield before our city, you have ceased to adore and reverence it, but you adore the wood of the cross and draw its likeness on your foreheads and engrave it on your house fronts. Would not any man be justified in detesting the more intelligent among you, or pitying the more foolish, who by following you, have sunk to such depths of ruin that they have abandoned the everliving gods and have gone over to the corpse of the Jew?²⁷⁶

εἶτα, ὃ δυστυχεῖς ἄνθρωποι, σωζομένου τοῦ παρ' ἡμῖν ὅπλου διοπετοῦς, ὃ κατέπεμψεν ὁ μέγας Ζεὺς ἢτοι πατήρ Ἄρης, ἐνέχυρον διδοὺς οὐ λόγον, ἔργον δὲ, ὅτι τῆς πόλεως ἡμῶν εἰς τὸ διηνεκὲς προασπίσει, προσκυνεῖν ἀφέντες καὶ σέβεσθαι, τὸ τοῦ σταυροῦ προσκυνεῖτε ξύλον, εἰκόνας αὐτοῦ σκιαγραφοῦντες ἐν τῷ μετώπῳ καὶ πρὸ τῶν οἰκημάτων ἐγγράφοντες. ἄρα ἀξίως ἂν τις τοὺς συνεωτέρους ὑμῶν μισήσειεν ἢ τοὺς ἀφρονεστέρους ἐλέησειεν, οἳ κατακολουθοῦντες ὑμῖν, εἰς τοσοῦτον ἦλθον ὀλέθρου, ὥστε τοὺς αἰωνίους ἀφέντες θεοὺς ἐπὶ τὸν Ἰουδαίων μεταβῆναι νεκρόν;

His statement that they worship a corpse clearly denies the resurrection of Christ. Tertullian argues against the thesis that Christians worship the cross, "But whoever believes that we are worshippers of the cross will also belong to our sect (*Sed et qui crucis nos religiosos putat consecraneus erit noster*).²⁷⁷ He then examines various gods that are venerated in the form of the *stipes* (upright beam of a *crux* [cross]).

²⁷⁵ Cp. chapt. 2 § 3.5.3.

²⁷⁶ C. Gal. 194c,d fr. 43 (Giuliano imperator contra Galilaeos, ed. E. Masaracchia, *Testi e Commenti* 9, Roma 1990, 138,7-16, trans. in *The Works of the Emperor Julian*, ed. and trans. W. C. Wright, vols. 1-3, LCL, Cambridge, MA/London 1923, 3.373). Cf. Cook, *New Testament*, 324-5. Celsus (C. Cels. 7.36, 68 νεκρόν σέβοντες [489,20; 517,10 Marcovich]) and Julian (C. Gal. 206a τὸν νεκρόν θρηνοῦντας, 335b (142,7; 175,5 Masaracchia)) both argue that Christians worship a corpse.

²⁷⁷ Tert. Apol. 16.6. Cp. Nat. 1.12.1.

7 Astrologers

7.1 Dorotheus of Sidon (I or beginning of II C.E.)

One of the fragments of the astrologer Dorotheus defines a person's horoscope on the day of their birth:

[The sun] being in another region [not the ascendant], in quartile or opposition aspect to Saturn or Mars, and especially Mars, individuals will be burned or crucified or consumed by beasts.

ἐν δὲ ἄλλοτρίῳ τόπῳ ὄν, κατὰ τετράγωνον ἢ διάμετρον ὁρώμενος ἐκ Κρόνου ἢ Ἄρεως, καὶ μάλιστα ἐκ τοῦ Ἄρεως, περικαύστους ἢ σταυρουμένους ἢ θηριοβόρους.²⁷⁸

This is a catalog of Roman *summa supplicia* (extreme penalties).²⁷⁹ The same two planets are dangerous for fugitives:

If Mars is in left aspect with the moon and Saturn is in right aspect, the fugitive will be crucified.

... ἐὰν δὲ ὁ μὲν Ἄρης ἐκ τῶν εὐωνύμων, ὁ δὲ Κρόνος ἐκ τῶν δεξιῶν αὐτὴν περιέχουσιν, ὁ φυγὼν ἀνασταυρωθήσεται.²⁸⁰

Fugitive slaves were subject to crucifixion, according to the astrologer.²⁸¹

7.2 Vettius Valens (wrote between 152 and 162)

Two texts of Vettius Valens employ the rare word *σκολοπιμός*, which LSJ define as “impaling,” but given the frequent references to crucifixion in astrological authors the meaning of the word cannot necessarily be derived from *σκόλοψ* (stake), which itself is not used for impalement by Celsus (§ 6.1) but for crucifixion.

Scorpio is supported by Gemini, Mars by Mercury: by means of an iron weapon, cutting of the genitals or rump, or strangury, mortification of the flesh, hanging, creeping things, an act of violence, a fight, attacks of bandits or attacks of pirates, or by magistral authority, by fire, crucifixion, serpents or through the fault of wild animals.

Σκορπίος ὑπὸ Διδύμων, Ἄρης ὑπὸ Ἑρμοῦ· διὰ σιδήρου, τομῆς μορίων, ἔδρας ἢ στραγγουρίας, σηπεδόνος, ἀγχόνης, ἐρπετῶν, βίας, μάχης, ληστῶν ἐφόδοις ἢ πειρατῶν ἐπιφοραῖς, ἢ δι' ἐξουσίας, διὰ πυρός, σκολοπισμοῦ, ἐρπετῶν, θηρίων αἰτίας.²⁸²

²⁷⁸ Dorotheus Fragmenta graeca (BiTeu 362,9-12 Pingree).

²⁷⁹ Cf. chapt. 5 § 1.2. Crucifixion and burning are clearly instances of the supreme punishments, and wild beasts probably were.

²⁸⁰ Dorotheus Fragmenta graeca (BiTeu 416,28-9 Pingree) = CCAG V/3, 84,27-30 Heeg.

²⁸¹ Cp. the incidents in chapt. 2 (the crucifixion of fugitive and rebellious slaves such as § 2.10.1, 2.15.6, 3.8.1).

²⁸² Vattius Valens Anth. 2.41.35 (BiTeu 121,14-7 Pingree).

Since the jurists specify crucifixion for certain crimes, impalement is probably not the correct translation.²⁸³ Another horoscope has a similar catalog of woe.

Capricorn is supported by Leo, Saturn by the sun: for they die suffering from heart disease, or in baths or burnt in fire, or by the wrath of a king or rulers, or by crucifixion, or by distress caused by animals and four-footed creatures, or by falling from a height.

Αἰγόκερως ὑπὸ Λέοντος, Κρόνος ὑπὸ Ἡλίου· τελευτῶσι [γὰρ] καρδιακοί, καταγματικοί, ἐν βαλανείοις ἢ πυρίκαυστοι, χόλω βασιλέως ἢ δυναστῶν, ἢ <διὰ> σχολοπισμοῦ, θηρίων κακώσεως, <ἀπὸ> τετραπόδων ἢ ὕψους πτώσεως.²⁸⁴

The use of the cognate verb ἀνασκολοπίζω in authors such as Philo, Lucian, Chariton, and Celsus indicates that the noun probably means crucifixion in Vettius Valens's time.

7.3 Ptolemy (wrote in Alexandria between 146 and ca 170)

Ptolemy includes crucifixion as one of the dangers of Ares:

... if Mercury also is in aspect to these [sun, moon and Mars], he causes death at the hands of pirates, robbers, or criminals in the mutilated and imperfect signs, or in the Gorgon of Perseus, death by decapitation or mutilation; in Scorpio and Taurus, death through cautery, cutting, or amputation by physicians, or death in convulsions;

The final phrase may be a reference to crucifixion:

and at mid-heaven or the opposite meridian at mid-heaven being raised up on crosses [or "beams"]

κἂν ὁ τοῦ Ἑρμοῦ δὲ τοῦτοις συσχηματισθῇ ὑπὸ πειρατῶν ἢ ληστηρίων ἢ κακούργων ἀπολλυμένους, ἐπὶ δὲ τῶν μελεοκοπουμένων καὶ ἀτελῶν ζῳδίων ἢ κατὰ τὸ Γοργόνιον τοῦ Περσέως ἀποκεφαλιζομένους ἢ μελεοκοπουμένους, ἐν δὲ Σκορπίῳ καὶ Ταύρῳ καύσειν ἢ τομαῖς ἢ ἀποτομαῖς ἰατρῶν καὶ σπασμοῖς ἀποθνήσκοντας, ἐπὶ δὲ τοῦ μεσουρανήματος ἢ ἀντιμεσουρανήματος σταυροῖς ἀνορθοούμενους ...²⁸⁵

Being "raised up on crosses/beams" could refer to exposure as in the case of an image of Andromeda (discussed above) who stands on the ground attached

²⁸³ Cp. the many references to crucifixion in the jurists (chapt. 5 § 1.5, 1.7).

²⁸⁴ Vattius Valens Anth. 2.41.37 (121,22-5 Pingree).

²⁸⁵ Ptolemy Tetrabiblos 4.9.12-13. Trans. of Ptolemy, Tetrabiblos, LCL, ed. and trans. F. E. Robbins, Cambridge, MA/London 1940, 435 (the last phrase is my trans.). This tradition also appears in Ps. Palchus (CCAG VIII/1, 248,17 Cumont). That name was used in a fourteenth century compendium by Eleutherius Elias Zebelenus. Cf. M. Boyce and F. Grenet, A History of Zoroastrianism III. Zoroastrianism under Macedonian and Roman Rule. Part 1, Leiden 1991, 534. W. Hübner, Raum, Zeit, und sociales Rollenspiel der vier Kardinalpunkte in der antiken Katarchen-Horoskopie, Munich/Leipzig 2003, 211, argues that the indication of the superior or inferior position of the planet Mars recalls the two forms of crucifixion practiced in antiquity in which the head was upright or upside down (with ref. to Martyrium Petri 8). Cf. the ref. in chapt. 2 § 3.5.3.

to three parallel vertical beams to which she is bound by each of her outstretched arms, but probably refers to crucifixion with the head upright or upside down.²⁸⁶ Ps. Ptolemy describes the fate of a person born with Mars in mid-heaven: If the planet is in mid-heaven, then his body will be crucified (εἰ δὲ μεσουρανεῖ ὁ φωστήρ, καὶ σταυρωθήσεται τὸ σῶμα αὐτοῦ).²⁸⁷ This likely refers to pre-mortem suspension because the text is surrounded by references to the fate of beheading (ἀποκεφαλίσθήσεται ὁ γεννηθείς) and excision of hands and feet (κοπήσονται αἱ χεῖρες αὐτοῦ καὶ οἱ πόδες) for individuals born with the planet in other aspects.

7.4 Ps. Manetho (II-III C.E.)²⁸⁸

Several texts in Manetho's astronomical poem mention crucifixion. Ares is responsible for human miseries:

and another you have ignominiously crucified in mid-air, whose nail-pierced hand has been stretched out on homicidal beams.

ἄλλον δ' ἀκλειῶς μετέωρον ἀνεσταύρωσας,
οὗ τέτατ' ἀνδροφόνους περὶ δούρασιν ἡλοπαγῆς χεῖρ.²⁸⁹

This is a clear reference to a *patibulum* and may be compared with Seneca's phrase describing an individual's hands stretched on the horizontal bar: *extendendae per patibulum manus* (hands are to be stretched out on a *patibulum*).²⁹⁰ When Saturn is below the earth during the night and Mars is in mid-heaven:

Stretching out by the hands a body high on a tree, he (Saturn) exhibited it as food for flying birds, bound high up by the iron of a sinew-cutting destiny

ἀπλώσας παλάμῃσιν ἐπὶ ξύλου ὑψόθι σῶμα
οἶωνοῖσι βορὴν ἐπανιπταμένοις ἐπέδειξεν
μοίρης νευροτόμου ἐσφιγμένος ἄκρα σιδήρῳ²⁹¹

This is another reference to the nails of crucifixion and to hands stretched out as on a *patibulum*. This could be a post-mortem suspension, but given its context in a poem on astrological fate, a bad death (that is, crucifixion) is probably the fate for the individual born under the given conjunction of the

²⁸⁶ Cf. § intro. § 3.3.

²⁸⁷ Ps. Ptolemy *Fructus sive centiloquium* 73.

²⁸⁸ Although books 2, 3, and 6 appear to be by the same author, whose horoscope dates to 80 (6.728-50), book 4 appears to be complete and books 1 and 5 are fragments. Cf. G. Luck, *Arcana Mundi. Magic and the Occult in the Greek and Roman World. A Collection of Ancient Texts*, Baltimore²2006, 419.

²⁸⁹ Ps. Manetho *Apotelesmatica* 1.148-9.

²⁹⁰ Sen. frag. 124 (BiTeu 42, Haase). Cf. intro. § 3.1.1

²⁹¹ Ps. Manetho *Apotelesmatica* 5.219-21.

planets. An individual born under a certain conjunction of Mars, Mercury and the moon will suffer:

They make murderers, brigands, mischief-makers, hunters for hateful gain, who through torture, punished with limbs outstretched, see the stake as their fate; they are fastened (and) nailed to it in the most bitter torment, evil food for birds of prey and grim bodies torn by dogs.

ἀνδροφόνους δρῶσιν, ληίστορας, ἐμπεδολώβας,²⁹²
κέρδεος ἐχθροτάτου θηρήτορας, οἷ βασιανηδὸν
στρεβλὰ κολαζόμενοι σκολοπιτῖδα μοῖραν ὀρῶσιν
πικροτάτοις κέντροισι προσαρτηθέντες ἐν ἥλοις,
οἰωνῶν κατὰδειπνα, κυνῶν θ' ἐλκύσματα δεινὰ.²⁹³

The reference to outstretched limbs coheres well with the T-shaped crosses of the Puteoli and Palatine graffiti.²⁹⁴ It is also evidence that the bodies of the crucified could be left on their crosses to decay.²⁹⁵

7.5 *Hephaestion of Thebes (IV-V C.E.)*

Hephaestion who presumably wrote early in the fifth century uses the text of Ptolemy quoted above in which those born with Mercury in mid-heaven are fated to die by crucifixion (ἐπὶ δὲ τοῦ μεσουρανήματος σταυροῖς ἀνορθούμενους).²⁹⁶ He also quotes the fragment of Dorotheus above in which certain individuals that are fugitives will be crucified.²⁹⁷

7.6 *Rhetorius (620 C.E.?)*

Otto Neugebauer and H. B. van Hoesen note that with Rhetorius “we come near to a period in which astrological practice was severely suppressed until its revival in the eighth century.”²⁹⁸ They continue by noting that “The horo-

²⁹² Presumably this word is a combination of λῶβη (outrage) and ἔμπεδος (clinging to).

²⁹³ Ps. Manetho *Apotelesmatica* 4.196-200. 198-200 is the trans. slightly modified of Hengel, *Crucifixion*, 9.

²⁹⁴ Figures 5-7, 10.

²⁹⁵ Cf. Cook, *Crucifixion and Burial*, passim.

²⁹⁶ Hephaestion *Apotelesmatica* 2.25.11 (BiTeu I, 188,29-30 Pingree). Cf. A. Engelbrecht, *Hephaestion von Theben und sein astrologisches Compendium*, Vienna 1887, 23 (a reference to the 97th year after Diocletian in one of his texts) and *Apotelesmatica* 2.1.32 (I, 87,3-4 Pingree). S. Heilen, *Ptolemy's Doctrine of the Terms and its Reception*, in: *Ptolemy in Perspective. Use and Criticism of his Work from Antiquity to the Nineteenth Century*, ed. A. Jones, Dordrecht et al. 2010, 45-94, esp. 59 notes that Hephaestion was born 26 Nov. 380 and that he uses primarily the work of Ptolemy and Dorotheus.

²⁹⁷ Dorotheus *Fragmenta graeca* (BiTeu 416,28-9 Pingree), Hephaestion *Apotelesmatica* 3.47.26 (BiTeu I, 320,9-11 Pingree). The text is repeated twice in the *Epitome* 2.2.23.26, 4.126.26 (BiTeu II, 61,5-6; 339,14-6 Pingree).

²⁹⁸ O. Neugebauer and H. B. van Hoesen, *Greek Horoscopes*, Philadelphia 1987, 187. They date him to 500 C.E. D. Pingree however dates him to ca 620 C.E. in Alexandria (From

scopes of the fifth century are therefore probably the latest texts which are directly connected with the origin and development of Hellenistic astrology.” Rhetorius clearly remembers the Roman practice of crucifixion.

If Mars and Mercury chance to be found in the descendant aspected by the Moon by opposition or square, it makes robbers, murderers who are crucified or thrown down from a precipice.

ἐὰν Ἄρης καὶ Ἑρμῆς ἐν τῷ δυτικῷ κέντρῳ τύχωνται, [καὶ] ὑπὸ Σελήνης θεωρούμενοι κατὰ διάμετρον ἢ τετράγωνον, ληστήας, ἀνδροφόνους ποιούσι σταυρουμένους ἢ κρημνιζομένους.²⁹⁹

Mars is responsible for aggravated forms of execution. Mars is also responsible for these harsh forms of death.

When Mars is aspected by the sun, it kills [by action] of the community or the people or kings, being crucified or being beheaded or fighting with wild beasts.

μαρτυρηθεὶς δὲ ὁ Ἄρης ὑπὸ Ἡλίου, ἀπὸ δήμου ἢ πλήθους ἢ βασιλέων ἀναιρεῖ σταυρουμένους ἢ ἀποκεφαλιζομένους ἢ θηριομαχοῦντας.³⁰⁰

James Holden refers to Cumont’s view that Constantine abolished crucifixion. “Therefore Rhetorius has preserved this text unchanged, even though it was no longer appropriate for his own epoch.”³⁰¹ Mars, Saturn, and Mercury are the source of these forms of death:

If the Ascending Node is found in the eighth house and Mars and Saturn and Mercury are in aspect, it makes those dying violently; for they are either beheaded or they are crucified.

Alexandria to Baghdād to Byzantium. The Transmission of Astrology, *International Journal of the Classical Tradition* 8 [2001] 3-37, esp. 1, 10, 12). A. Jones questions Pingree’s apparent reason for his dating (a problematic horoscope of 601). Cf. idem, *Ancient Rejection and Adoption of Ptolemy’s Frame of Reference for Longitudes*, in: *Ptolemy in Perspective. Use and Criticism of his Work from Antiquity to the Nineteenth Century*, ed. A. Jones, Dordrecht et al. 2010, 1-44, esp. 44 n. 63.

²⁹⁹ Rhetorius *Capitula Selecta* (CCAG VIII/4, 192,23-193,1 Cumont). Trans. of Rhetorius the Egyptian, *Astrological Compendium Containing his Explanation and Narration of the Whole Art of Astrology*, trans. J. H. Holden, Tempe, AZ 2009, 119.

³⁰⁰ Rhetorius *Capitula Selecta* (CCAG VIII/4, 200,12-3 Cumont). Trans. of Holden, Rhetorius, 126.

³⁰¹ Holden, Rhetorius, 126. Rhetorius mentions Critodemus shortly before this text (CCAG VIII/4, 199,15 Cumont), and he appears to be responsible for the tradition. Cumont, *ibid.*, 200 writes “*Haec ante aetatem scripta Constantini magni, qui crucis supplicium suppressit* (Mommsen, *Strafrecht*, p. 921), *nihil cogitans transcripsit Rhetorius*.” Rhetorius handed on the tradition without any serious reflection. Critodemus is one of the earliest astrological authors. Cf. Neugebauer and van Hoesen, *Greek Horoscopes*, 185-6 “an author perhaps fifty years older than Vettius Valens.”

ἐάν ὁ Ἀναβιάζων τύχη ἐν τῷ ὀγδόῳ τόπῳ <καὶ> ἐπιθεωρήσωσι Ἄρης καὶ Κρόνος καὶ Ἑρμῆς, βιαιοθανασίαν ποιοῦσι· ἥ γὰρ ἀποκεφαλίζονται ἢ ἀνασκολοπίζονται.³⁰²

Saturn and Mars are dangerous:

When Saturn is under the earth, and Mars by night is in mid heaven, they make individuals who are to be crucified and consumed by birds.

ὁ Κρόνος ὑπογείῳ, Ἄρης μεσουραῶν νυκτὸς ποιοῦσιν ἐσταυρωμένους καὶ ὑπὸ ὄρνεων βεβρωμένους.³⁰³

Rhetorius knows the tradition of crucified victims whose bodies were left to rot on their crosses.

7.7 Johannes Lydus (490-ca 560)

Lydus, in his work *On Portents*, mentions crucifixions. Although Lydus was a scholar and administrator and not an astrologer, this text belongs with other astrological material because the *On Portents* is an astrological treatise.

Nov. 9: If it thunders, there will be crucifixions of some of the citizens, but liberality between friends.

Θ . εἰ βροντήσῃ, δημοτῶν ἀνασκολοπισμοὶ ἔσονται, ἀλλὰ μὴν καὶ ἀφθονία τῶν ἐπιτηδείων.³⁰⁴

Probably Lydus is using a memory here of the Roman method of crucifixion (not usually impalement), unless he is thinking of the Byzantine penalty of the *furca*, which was not an impalement.

7.8 Theophilus of Edessa (d. 785) and Crucifixion in the Muslim World

Theophilus of Edessa was “the court astrologer and military advisor” of the ‘Abbāsīd al-Mahdī’s court “as well as the author, among other things, of a book on military astrology.”³⁰⁵ He describes the baneful influences of Mars and Mercury for an individual’s natal day.

If the moon is in mid-heaven and the maleficent [planets] are in opposition or square aspect: say that the tyrant will hang himself or be crucified.

³⁰² Rhetorius, *Capitula Selecta* (CCAG VIII/4, 201,2-5 Cumont). Trans. of Holden, Rhetorius, 127.

³⁰³ Rhetorius, *Capitula Selecta* (CCAG VIII/4, 201,21-2 Cumont).

³⁰⁴ Lydus *De ostentis* 32 Nov. 9 (BiTeu 74,22-3 Wachsmuth). Cf. Wachsmuth, *ibid.*, xxi-xxviii on Lydus’s use of astrological writers (and writers on divination) as his sources.

³⁰⁵ D. Gutas, *Greek Thought, Arabic Culture. The Graeco-Arabic Translation Movement in Baghdad and Early ‘Abbāsīd Society* (2nd-4th/8th-10th centuries), New York 1998, 16.

Σελήνη μεσουρανοῦσα, ἐὰν οἱ κακοποιοὶ διαμετρήσωσιν, ἢ τετραγωνίσωσιν· τὸν τύραννον ἐαυτὸν ἀναρτᾶν λέγει ἢ σταυρούμενον.³⁰⁶

He may have been aware of crucifixions in the Islamic world, although that penalty was probably quite variegated and not necessarily identical with Roman practice.³⁰⁷

7.9 *Astrologica, De mansionibus Lunae*

A work *On the Phases of the Moon* (found in Cod. Oxon. Cromwell 12, P. 402) perhaps preserves an ancient tradition. In its discussion of the seventeenth lunar phase the author refers to various traditions concerning inauspicious events (marrying a virgin) or auspicious undertakings (marrying a widow, buying four legged animals).

A story: The head of a raven was encompassed by a crown plated in gold with a vertebra of a crucified person. The flesh was naked up to the breast and next was a real ring covered with gold that had a star. Inside and outside the ring were what appeared to be blue feathers.

Ἡ ἱστορία· κεφαλὴ ἰέρακος περικυκλον ἔχουσα στέφανον διὰ χρυσοπετάλου, μετὰ σπονδύλου ἀνθρώπου ἐσταυρωμένου· ἡ δὲ σὰρξ μέχρι τοῦ στήθους γυμνή, καὶ μετὰ τοῦτο ὥσει τροχὸς ἀληθινὸς ἔχων ἀστέρα διὰ χρυσοπετάλου· καὶ ἔνθεν τοῦ τροχοῦ κάκειθεν ὥσει πτερὰ βένετα.³⁰⁸

Apparently the author had heard this story, but it was probably rooted in a period when crucifixion was still practiced in the imperium. He mentions Dorotheus shortly before the text quoted above.

7.10 *Hermae Trismegisti methodus mystica*

This astrologer, after discussing various conjunctions of Saturn, Mercury and Jupiter writes,

If the malevolent planets are in square aspect with Mercury as it enters into a cadent place, they indicate a brigand and a murderer. If the malevolent planets exchange each other's domicile (their subdivisions), they show that such an individual will be crucified.

κακοποιοὶ τετραγωνίζοντες τὸν Ἑρμῆν ἀποκεκλιότα ληστὴν σημαίνουσι καὶ ἀνδροφόνον· εἰ δὲ καὶ ἐνηλλαχότες εἶεν τὰ ὄρια ἀλλήλων οἱ κακοποιοί, καὶ ἀνασταυρούμενον δηλοῦσι τὸν τοιοῦτον.³⁰⁹

Cumont argues that the use of the word for crucifixion indicates a time before Constantine for the composition of the text.³¹⁰ He believes it is far earlier.

³⁰⁶ Theodorus De rebus praesertim bellicis 38 (CCAG XI/1, 259,7-8 Zuretti).

³⁰⁷ Cp. Qurʾān 5:33 (crucifixion as a possible penalty for brigandage). See chapt. 4 § 4.

³⁰⁸ De mansionibus Lunae (CCAG IX/1, 150,33-151,2 Weinstock).

³⁰⁹ Hermae Trismegisti methodus mystica (CCAG VIII/1, 176,14-7 Cumont).

³¹⁰ Cumont, CCAG VIII/1, 172.

7.11 Apomasar (IX C.E.)

In a tenth century Byzantine translation of Apomasar's *De revolutionibus nativitatium*, one of the cycles of Mars is quite dangerous:

He will be harmed either by relatives of his own household and will be saved; and he will be subject to fear from beast or fire or iron weapon or boiling water or crucifixion or one of the crucified.

βλαβήσεται δὲ καὶ παρὰ τῶν οἰκείων γονέων καὶ σωθήσεται καὶ φόβον ὑποστήσεται ἀπὸ θηρὸς ἢ πυρὸς ἢ σιδήρου ἢ ζέοντος ὕδατος ἢ ἀνασκολοπίσεως ἢ τινος τῶν ἀνεσκολοπισμένων.³¹¹

It is difficult to tell whether this reflects a Roman tradition or the Islamic practice of crucifixion. Given its Arabic roots, it is probably more related to Islamic practice.

8 Dream Interpreters

8.1 Artemidorus of Ephesus (mid/late II C.E.)

Artemidorus's *Oneirocritica* is the only ancient dream-book in existence.³¹² He had traveled around the Greco-Roman world.³¹³ Dreams that only concern the dreamer include hanging oneself, dying and being crucified (ἀναρτᾶν ἑαυτὸν ἀποθνήσκειν σταυροῦσθαι).³¹⁴ Jumping dreams are dangerous:

If a person who is high should dance on something, he will fall into fear and alarm, and if he is a criminal he will be crucified because of the height and stretching out of his hands.

εἰ δέ τις ὑψηλὸς [ἐπὶ τινος] ὀρχοῖτο, εἰς φόβον καὶ δέος πεσεῖται, κακοῦργος δὲ ὢν σταυρωθήσεται διὰ τὸ ὕψος καὶ τὴν τῶν χειρῶν ἔκτασιν.³¹⁵

The detail about the hands indicates a *patibulum* as does the following dream. Artemidorus has an elaborate passage on the significance of crucifixion in dreams:

Being crucified is a good thing for all sailors. For the cross is made from posts and nails like the ship, and its mast is like a cross. It [crucifixion] is good for a poor person. For the crucified individual is high and feeds many [birds]. But it reveals secrets. For the crucified is manifest [to all]. But it [crucifixion] harms the rich. For they are crucified naked, and the crucified lose their flesh. It prophesies marriage to an unmarried person because of the binding [to the cross] but it [the marriage] does not confer much benefit. The same thing is true concerning friendship and partnership. It frees slaves. Because the

³¹¹ Apomasar *De revolutionibus nativitatium* (BiTeu 204,8-11 Pingree).

³¹² S. R. F. Price, Artemidorus ³OCD, 182 and idem, *The Future of Dreams: From Freud to Artemidorus*, P&P 113 (1986) 3-37.

³¹³ Price, *Future*, 27-8 (probably Italy, Greece, and Asia Minor). Cf. Onir. 1.pr and 5.pr.

³¹⁴ Artemidorus Onir. 1.2 (BiTeu, 8,26 Pack).

³¹⁵ Artemidorus Onir. 1.76 (82,24-6 Pack).

crucified are free. For those who want to pass their time at home and who farm their own land and who fear being driven out from somewhere it [crucifixion] drives out and does not allow them to remain where they are. For the cross hinders one from setting foot on the ground. Dreaming that one has been crucified in a city indicates a magistracy – wherever the place is in which the cross stands.

Σταυροῦσθαι πᾶσι μὲν τοῖς ναυτιλλομένοις ἀγαθόν· καὶ γὰρ ἐκ ξύλων καὶ ἥλων γέγονεν ὁ σταυρὸς ὥς καὶ τὸ πλοῖον, καὶ ἡ κατάρτιος αὐτοῦ ὁμοία ἐστὶ σταυρῷ. ἀγαθὸν δὲ καὶ πένητι· καὶ γὰρ ὑψηλὸς ὁ σταυρωθεὶς καὶ πολλοὺς τρέφει <οἰωνούς>. τὰ δὲ κρυπτὰ ἐλέγχει· ἐκφανὴς γὰρ ὁ σταυρωθεὶς. τοὺς δὲ πλουσίους βλάπτει· γυμνοὶ γὰρ σταυροῦνται καὶ τὰς σάρκας ἀπολλύουσιν οἱ σταυρωθέντες. ἀνδρὶ δὲ ἀγάμῳ γάμον προαγορεύει διὰ τὴν δέσιν πλην οὐ πάννυ τι συμφέροντα. ὁ δὲ αὐτὸς λόγος καὶ περὶ φιλίας καὶ κοινωνίας. δοῦλους δὲ ἐλευθεροῖ· ἀνυπότακτοι γὰρ οἱ σταυρωθέντες. τοὺς δὲ ἐν τῇ οἰκείᾳ διατρίβειν βουλομένους καὶ τοὺς ἰδίαν γῆν γεωργοῦντας καὶ τοὺς ἐκβληθῆναι ποθὲν φοβουμένους ἐκβάλλει καὶ οὐκ ἔα μένειν ἐν οἷς εἰσιν· εἴργει γὰρ ὁ σταυρὸς τῆς γῆς ἐπιβαίνειν. ἐν πόλει δὲ δοκεῖν ἐσταυρωθῆναι ἀρχὴν σημαίνει τοιαύτην, οἷος ἂν ἡ ὁ τόπος, ἐν ᾧ ὁ σταυρὸς ἔστηκε.³¹⁶

The text illustrates the height and construction of crosses (probably a T-shape or something similar), the possible use of ropes, and the nudity of the victims.³¹⁷ Carrying “demons” is not auspicious:

Carrying one of the chthonic demons, either Pluto himself or Cerberus or another one from Hades indicates to the criminal who sees himself doing it that he will carry the cross. For the cross resembles death, and one who is about to be nailed to it first carries it.

Βαστάζειν τινὰ τῶν δαιμόνων τῶν χθονίων, ἢ αὐτὸν τὸν Πλούτωνα ἢ τὸν Κέρβερον ἢ ἄλλον τινὰ τῶν ἐν Ἄιδου, κακούργῳ μὲν ἰδόντι σταυρὸν βαστάσαι σημαίνει· ἔοικε γὰρ καὶ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων αὐτῷ προσηλοῦσθαι πρότερον αὐτὸν βαστάζει.³¹⁸

Artemidorus pictures the criminal carrying the *patibulum* and notes the nails used in crucifixion (cf. intro. § 3.2). His emphasis on nails shows that he does not intend “impalement” in these texts. Flying is dangerous for some:

Flying with birds indicates that one will dwell with foreigners and strangers. It is bad for the wicked. For it punishes the guilty, often by means of the cross.

Ἰπτασθαι μετὰ ὀρνέων σημαίνει μετὰ ἀνθρώπων ἀλλοεθνῶν καὶ ξένων ἀναστραφῆσεσθαι· πανούργοις δὲ πονηρόν· τοὺς γὰρ ἀλιτηρίους κολάζει, πολλάκις δὲ καὶ διὰ σταυροῦ.³¹⁹

He tells the following story about Alexander, the philosopher:

³¹⁶ Artemidorus Onir. 2.53 (183,6-21 Pack).

³¹⁷ Cf. chapt. 2 § 3.2.3, however, on the issue of nudity in the ancient world and intro. 6.2.1 on the shape of crosses.

³¹⁸ Artemidorus Onir. 2.56 (185,3-7 Pack). Blinzler, *Der Prozess*, 265 argues that Artemidorus uses σταυρός for *patibulum* here.

³¹⁹ Artemidorus Onir. 2.68 (192,22-5 Pack).

Alexander the philosopher dreamed that he was condemned to death, asked for pardon, and was barely set free from the [penalty of the] cross. What concerned such a man of discipline was neither marriage nor association nor wealth nor any other matters that are signified by a cross. The next day while arguing with a certain Cynic he was struck in the head with a club [ξύλῳ], and this was what his mind had foretold: that he would come close to dying by wood [ξύλῳ].³²⁰ Such a dream will teach you to seek all [the “limit”] of the possible events [indicated by the dream].

Ἀλέξανδρος ὁ φιλόσοφος ἔδοξε τὴν ἐπὶ θανάτῳ κατακεκρίσθαι καὶ παραιτησάμενος μόλις ἀπολευσθαι ἀπὸ τοῦ σταυροῦ· ἔμελε δὲ αὐτῷ ἅτε ἀνδρὶ ἀσκητῇ οὔτε γάμου οὔτε κοινωνίας οὔτε πλούτου οὔτε τῶν <ἄλλων> ὅσα ὑπὸ σταυροῦ σημαίνεται. τῇ ὑστεραίᾳ διενεχθεὶς πρὸς τινὰ Κυνικὸν ἐπλήγη τὴν κεφαλὴν ξύλῳ, καὶ τοῦτο ἦν ὅπερ προηγόρευσεν αὐτῷ ἡ ψυχὴ, μέλλειν ξύλῳ μικροῦ δεῖν ἀποθανεῖσθαι. οὗτος ὁ ὄνειρος διδάξει σε ζητεῖν τι καὶ πέρας τῶν ἐνδεχομένων ἀποβαίνειν.³²¹

Crucifixion dreams can be quite favorable:

For example someone [dreamed being crucified]: dreaming being crucified indicates honor and abundance because an individual who had been crucified is very high and because he/she feeds many birds. Menander imagined he was crucified in Greece before the temple of Zeus Polieus, and he was appointed a priest of that god and became an illustrious (*vir clarissimus*) and very rich man.

οἷον <ἔδοξε τις ἐσταυρῶσθαι>, σημαίνοντος τοῦ δοκεῖν ἐσταυρῶσθαι δόξαν καὶ εὐπορίαν· δόξαν μὲν διὰ τὸ ὑψηλότατον εἶναι τὸν ἐσταυρωμένον, εὐπορίαν δὲ διὰ τὸ πολλοὺς τρέφειν οἰωνοὺς. <ὁ> Μένανδρος ἐν Ἑλλάδι ἔδοξεν ἐσταυρῶσθαι ἔμπροσθεν ἱεροῦ Διὸς Πολιέως, καὶ ἱερεὺς ἀποδειχθεὶς αὐτοῦ ἐκείνου τοῦ θεοῦ λαμπρότερός τε καὶ εὐπορώτερος ἐγένετο.³²²

Artemidorus gives evidence for the denial of burial to certain victims of crucifixion. Dreams concerning lighting torches can be dangerous:

Someone dreamed that they could not light lamps from the hearth within their own home but instead lit them using heavenly fire. He was crucified and was warmed by heavenly fire in this manner.

Ἔδοξε τις λαμπάδας ἀπὸ τῆς ἐστίας τῆς ἔνδον παρ' αὐτῷ μὴ δύνασθαι ἀνάψαι καὶ ἀπὸ τοῦ οὐρανίου ἀνάψαι <πυρός>. ἐσταυρώθη καὶ [κατὰ] τοῦτον τὸν τρόπον τῷ οὐρανίῳ πυρὶ ἐθάλλετο.³²³

This text also shows that many crucified victims were left for a long period of time in the sun.

³²⁰ Here I have modified the trans. of the phrase in Artemidorus, *Oneirocritica*, trans. and comm. by R. J. White, Torrance, CA ²1990, 206 (the rest of the trans. is mine).

³²¹ Artemidorus Onir. 4.33 (267,6-14 Pack). Immediately before this account Artemidorus depicts Heraclides of Thyatira who was going to engage in a contest of tragedy in Rome. On the identity of Alexander, cf. R. Goulet, Alexandre, *Dictionnaire des philosophes antiques* VI (forthcoming) who doubts he is Alexander of Seleucia (W. Schmid, *Alexandros* 98, PRE I/2 [1894] 1459).

³²² Artemidorus Onir. 4.49 (276,5-12 Pack).

³²³ Artemidorus Onir. 5.34 (309,15-8 Pack).

8.2 Achmet (X C.E.)

The author who wrote an *Oneirocriticon* in the Byzantine period is not Arabic, but a “Christian Greek.”³²⁴ He used Arabic tradition and made liberal use of Artemidorus. He also used Byzantine material.³²⁵ Several passages discuss crucifixion, a practice long abandoned in the Byzantine world in which Achmet lived.³²⁶

From the Persians and Egyptians concerning crucifixion.

If someone dreams that he was crucified, if he is poor, he will become rich; if he is already rich, he will obtain even more money, but only with violence and punishment. If someone dreams that he was scourged with straps of rawhide before he was crucified, he will be exalted before the people and have power over them in direct measure to the flogging. If he dreams that after he was crucified he came down from the cross, he will fall from the height of his honor and his wealth will disappear. If he dreams that he was crucified and then set on fire, he will be exalted and rule people; however, he will later suffer a violent death on the battlefield because of the violence that fire symbolizes.

Ἐκ τῶν Περσῶν καὶ Αἰγυπτίων περὶ σταυρώσεως.

Ἐάν τις ἴδῃ, ὅτι ἐσταυρώθῃ, εἰ μὲν ἐστὶ πτωχός, πλουτήσει, εἰ δὲ πλούσιος, βία καὶ τιμωρία κληρονομήσει πλοῦτον πλείονα. ἐάν τις ἴδῃ, ὅτι ἐδάρη βουνεύροις καὶ οὕτως ἐσταυρώθῃ, κατὰ τὸ μέτρον τοῦ δαρμοῦ λαοῦ ἐξουσιάζει ὑψούμενος ἐν αὐτῷ. ἐάν ἴδῃ, ὅτι ἐσταυρώθῃ καὶ κατῆλθεν, ἀπὸ τοῦ ὕψους τοῦ ἀξιώματος αὐτοῦ πεσεῖται καὶ ὁ πλοῦτος αὐτοῦ ἀφανισθήσεται. ἐάν ἴδῃ, ὅτι ἐσταυρώθῃ καὶ ἐνεπρήσθῃ, ὑψωθήσεται καὶ λαοῦ ἄρξει καὶ μετὰ ταῦτα ἀνάγκη πολέμου ἀποθανεῖται διὰ τὴν τοῦ πυρὸς βίαν.³²⁷

This text is important because of its depiction of possible scourging before crucifixion. The remark that the individual might “come down from the cross” implies that impalement is not the penalty envisaged. The possibility of crucifixion and death by fire also illustrates the combination of punishments that is probably found in Tacitus’s description of the Neronian persecution.³²⁸ In another text he refers to moving crosses.

From the Indians concerning king and cross.

If someone dreams that he has taken a cross into a temple or into his house, from a high and great individual, and equally from a king, he will find great joy and victories over his enemies. If someone dreams that his cross is taken from him he will enter into a period of trial and will be enslaved by his enemy. If one dreams that the cross is returned, he will cast aside his sorrow.

³²⁴ S. M. Oberhelman, *The Oneirocriticon of Achmet. A Medieval Greek and Arabic Treatise on the Interpretation of Dreams*, Lubbock, TX 1991, 11, 13-4 (reasons for his *floruit* in XI C.E.).

³²⁵ On the sources, cf. Oberhelman, *Oneirocriticon*, 15-20.

³²⁶ Oberhelman, *Oneirocriticon*, 12 argues that his environment is Orthodox Christian and Greek, writing perhaps in Asia Minor or Syria.

³²⁷ Achmet *Oneirocriticon* 90. Trans. of Oberhelman, *Oneirocriticon*, 118-9.

³²⁸ Chapt. 2 § 3.5.2.

Ἐκ τῶν Ἰνδῶν περὶ βασιλέως καὶ σταυροῦ.
 Ἐὰν ἴδῃ τις, ὅτι σταυρὸν ἦρεν εἰς ναὸν ἢ εἰς οἶκον αὐτοῦ, ἀπὸ ὑψηλοῦ καὶ
 μεγίστου, ἴσως καὶ ἀπὸ βασιλέως, χαρὰν μεγάλην εὐρήσει καὶ νίκας ἐχθρῶν.
 ἐὰν τις ἴδῃ, ὅτι ἦρθῃ ἀπ’ αὐτοῦ ὁ σταυρός εἰς θλίψιν ἐλεύσεται καὶ
 καταδουλωθήσεται τῷ ἐχθρῷ αὐτοῦ. ἐὰν δὲ ἴδῃ, ὅτι πάλιν ἐστράφη ὁ σταυρός,
 ἀποβαλεῖ τὴν λύπην αὐτοῦ.³²⁹

He then describes a dream in which an individual finds pieces (ξύλα) of the cross of Christ or the entire cross who will then become king.³³⁰ The texts translated above do not show overt dependence on Artemidorus by means of verbal quotation.

9 Physicians

9.1 Galen (129-?199/216)

Galen of Pergamum became physician of Marcus Aurelius in Rome in 162.³³¹ He makes a reference to crucifixion.

Therefore, if the whole lower part of the back was one bone, a living creature could not move with such an arrangement of parts, as if it were fixed to an obelisk or nailed to a cross ...

Ὅτι μὲν οὖν, ἐν ὅστουν εἴπερ ἐγένετο τὸ τῆς ὅλης ῥάχεως, ἀκίνητον ἂν ἦν κατὰ ταῦτα τὰ μέρη τὸ ζῶον, ὥσπερ ὀβελίσκῳ τινὶ διαπεπαρμένον ἢ σταυρῷ προσηλωμένον ...³³²

Although he does not specify the shape of the cross, the nails probably indicate that the hands were extended. Nails and a cross (*stauros*) belong together naturally in a Roman’s concept of crucifixion. Clearly crucifixion was a practice of Galen’s time. He mentions the death by crucifixion of Polycrates of Samos after recounting various prodigies of Croesus and Polycrates: “soon after [these prodigies] you will see Polycrates crucified” (ὅσπερ ὄψει Πολυχράτην μὲν ἀνεσταυρωμένον).³³³

³²⁹ Achmet Oneirocriticon, 126.

³³⁰ Achmet Oneirocriticon, 126. Achmet proceeds to discuss a king’s dream about finding a (decorative) cross and the auspicious consequences. The next text in 126 is about dreaming of a place in which a cross stands where one formerly was not. He mentions Christians in the passage, so it clearly is a much later tradition than Artemidorus. Oneirocriticon 150 is about dreams of a king concerning icons that portray Jesus crucified.

³³¹ L. Edelstein and V. Nutton, Galen, ³OCD, 621-2.

³³² Galen De usu partium 12.11 (BiTeu II, 214,5-8 Helmreich).

³³³ Galen Adhortatio ad artes addiscendas 4.3 (CUFr Galien II, 88 Boudon).

9.2 Alexander of Tralles (525-605)

Alexander transmits a tradition of the physician Archigenes who lived during Trajan's reign. The tradition is a text from Archigenes' *Amulets and Remedies for Epileptics* (Περίαιπτα καὶ ἀντιπαθῆ πρὸς ἐπιληπτικούς ἐκ τῶν Ἀρχιγένους). Archigenes in turn mentions as his source Asclepiades who died during I B.C.E.:

These kinds of amulets are to be used for the illness, as does Asclepiades the druggist. Hang a nail used in crucifixion on the arm of the ill person, and you will remove it [the epilepsy].

Περίαιπτοις δὲ τούτοις χρηστέον πρὸς τὸ πάθος, ὡς Ἀσκληπιάδης ὁ φαρμακευτής. ἥλον ἐσταυρωμένον τῷ βραχίονι τοῦ πάσχοντος περιάπτε καὶ ἀπαλλάξεις.³³⁴

The nail is probably from the flesh of a crucified individual, although it is possible that he means a nail used in the construction of a cross. Nails from crucified victims were useful in magic, according to the ancient evidence.³³⁵

10 Later Traditions of Crucifixion and the furca in Greek Texts

10.1 Sozomen

Sozomen describes the Christians' conversion of the temple of Dionysus in Alexandria into a church ca 391.³³⁶ The Christians paraded objects of the cult, including *phalli*, through the streets. The pagans seized the Serapeum:

From it as from some citadel they suddenly emerged and seized many Christians; after torturing them they forced them to sacrifice. Some of those who refused to sacrifice they crucified, and they broke the legs of others, and they executed still others in different ways.

ἐντεῦθεν ὡς ἀπ' ἄκρας τινὸς ἐξαπιναίως ἐλθόντες συνελάβοντο πολλοὺς Χριστιανῶν καὶ βασανίζοντες ἠνάγκαζον θύειν. παραιτουμένους δὲ τοὺς μὲν ἀνεσκολόπισαν, τῶν δὲ τὰ σκέλη κατέαξαν, ἄλλους δὲ ἄλλως ἀνήρουν.³³⁷

This was a lynching and not a penal execution by a magistrate.

³³⁴ Alexander Therapeutica Περὶ ἐπιληψίας (I, 567 Puschmann). Puschmann, *ibid.*, 566 translates the text as "nail from a cross," which is also possible.

³³⁵ Chapt. 1 § 2.6, 2.10, chapt. 4 § 3.8.

³³⁶ For the date, see S. Mitchell, *A History of the Later Roman Empire*, AD 284-641, Malden, MA et al. 2007, 319-20. Socrates H.E. 5.16-7, Theodoret H.E. 5.22, Rufinus H.E. 11.22-7. Rufinus (11.22 [GCS Eusebius Werke II, 1025,27-8 Schwartz/Mommsen] has *alios patibulis adfigentes, alios confractis cruribus in speluncas praecipitantes* ... (some they nailed to crosses, and others with broken legs they threw into caves [which had been dug for the sacrificial blood]).

³³⁷ Sozomen H.E. 7.15.4.

10.2 Socrates

Socrates narrates an incident in Inmestar in Syria after his description of the lynching of Hypatia in Alexandria in 415.³³⁸ If the event happened, it may have been during the festival of Purim.

They did a lot of irrational things while mocking the Christians; being carried away by drunkenness they dragged Christians and even Christ himself into their comic performances. While laughing at the cross and those who put their hope in the crucified one, they contrived something. They seized a Christian boy and binding him to a cross they suspended him. First they continuously jeered and scoffed, and a little later they lost their wits and scourged the boy with the result that they killed him.

Καὶ πολλὰ ἐν τῷ παίζειν ἄλογα ποιοῦντες, ὑπὸ μέθης ἐξαχθέντες Χριστιανούς τε καὶ αὐτὸν τὸν Χριστὸν ἐν τοῖς παιγνίοις διέσυρον· γελῶντές τε τὸν σταυρὸν καὶ τοὺς ἐπηλπικότας ἐπὶ τῷ ἐσταυρωμένῳ καὶ τοιοῦτόν τι ἐπεινόησαν. Παιδίον Χριστιανὸν συλλαβόμενοι, σταυρῷ προσδήσαντες ἀπεκρέμασαν, καὶ πρῶτον μὲν καταγελῶντες καὶ χλευάζοντες διετέλουν, μετ' οὐ πολὺ δὲ καὶ τῶν φρενῶν ἐκστάντες τὸ παιδίον ἤκισαντο, ὥστε καὶ ἀνελεῖν.³³⁹

It is difficult to evaluate the historicity of this story, but it quite possibly happened given the bad state of Christian-Jewish relations at the time.³⁴⁰

10.3 A Byzantine Tradition on Purim

David Chapman has drawn attention to a text from late antiquity (probably VIII C.E.) in which Jewish converts being baptized make the following oath:

I next curse those who keep the festival of the so-called Mordecai on the first Sabbath of the Christian fasts (= Lent), nailing Haman to wood and then mixing with him the emblem of a cross and burning them together, subjecting Christians to all kinds of imprecations and a curse.

³³⁸ T. C. G. Thornton, *The Crucifixion of Haman and the Scandal of the Cross*, JTS n.s. 37 (1986) 419-26, esp. 424 dates the incident between 415 and 419.

³³⁹ Socrates H.E. 7.16.3-4.

³⁴⁰ Cf. G. I. Langmuir, *Thomas of Monmouth: Detector of Ritual Murder*, in: *The Blood Legend. A Casebook in Anti-Semitic Folklore*, ed. A. Dundes, Madison, WI 1991, 3-40, 10 (could have happened or been imagined by Socrates or others) provides bibliographical information on various scholars' judgments about the historicity of the narrative. Cp. the same account in Theodorus Anagnostes *Epitome historiae tripartatae* 4.312. Agapius (X C.E.), the Arabic Christian historian, tells a story in which, after 411 (the third year of Theodosius is mentioned in PO VIII, 406 Vassiliev, the sixth year is mentioning following the account of the Jews in PO VIII, 409), Jews of Alexandria were baptized (presumably forcibly). They then crucified an idol and called it "Messiah." A riot resulted, and many people were killed (*Universal History* [PO VIII, 408 Vasiliev]). E. W. Lane, *Arabic-English Lexicon*, London 1872, s.v. صنم defines the word to mean an "idol" and not the more neutral "statue" of Vassiliev's trans.

... ἀναθεματίζω μετὰ τούτων καὶ τοὺς τὴν ἑορτὴν τελούντας τοῦ λεγομένου Μαρδοχαίου κατὰ τὸ πρῶτον Σάββατον τῶν Χριστιανικῶν νηστειῶν καὶ ξύλῳ δῆθεν τὸ Ἀμᾶν προσηλοῦντας, εἴτα μὴ γινύντας αὐτῷ τὸ σταυροῦ σημεῖον, καὶ συγκατακαίοντας ἀραῖς τε παντοίαις καὶ ἀναθέματι τοὺς Χριστιανούς ὑποβάλλοντας.³⁴¹

The text does have value as evidence of Christian suspicion of Purim.

10.4 ἀνασοκολοπίζειν as a Byzantine Penalty

After Constantine ended, for the most part, crucifixion in the west, one might perhaps expect the verb to disappear from Byzantine texts.³⁴² This is manifestly not the case, however. The argument of this section is that the verb ἀνασοκολοπίζειν came to be used for the punishment of the *furca* (Y) in the East, which is illustrated in the famous Joshua Roll (Josh 8:29 and 10:26) and the Vienna Genesis's depiction of the baker's punishment (figure 16).³⁴³ The word is normally translated "impale" in Byzantine texts, but such a translation is probably incorrect. Jane Bishop argues, for example, that "The Byzantines were starting to strangle criminals in a *furca*, exactly as described by Simocatta for Paulinus the sorcerer. Thus the word 'impale' is to be distrusted in any translation from the Byzantine period of Greek and the Byzantines are to be acquitted of the odium of using this awful penalty."³⁴⁴ With regard to a

³⁴¹ Appendix monumentorum ad Recognitiones Clementinas (PG 1.1457C), trans. of Thornton, *The Crucifixion*, 424. Cf. Chapman, *Ancient Jewish Perspectives*, 238.

³⁴² Cf. chapt. 5 § 1.10 and Cook, *Crucifixion in the West*.

³⁴³ For this mode of execution and illustrations in the "Joshua Roll," cf. O. Kresten, *Die Hinrichtung des Königs von Gai* (Jos. 8.29), *AÖAW.PH* 126 (1989) 111-29, P. Speck, *Der Tod an der furca*, *JÖB* 40 (1990) 349-50, idem, *Eine Quelle zum Tod an der furca*, *JÖB* 42 (1992) 83-85, K. M. Coleman, 'Informers' on Parade, in: *The Art of Ancient Spectacle*, ed. B. Bergmann and C. Kondoleon, *Studies in the History of Art* 56, Washington, DC 1999, 231-245, esp. 235-247 (with depictions of the punishment in the Byzantine MS [X C.E.] Cod. Vat. Pal. gr. 431 fol. 11^r, 15^r). Josh 8:29: ἐκρέμασεν ἐπὶ ξύλου διδύμου (he suspended him on a forked tree). *Suda* Δ § 870 defines Δίδυμον ξύλον as ἡ παρὰ Ῥωμαίοις φοῦρκα (forked tree, the *furca* of the Romans). Cf. K. Weitzmann, *The Joshua Roll. A Work of the Macedonian Renaissance*, Princeton 1948, nr. 46, 50 and *Age of Spirituality, Late Antique and Early Christian Art, Third to Seventh Century: Catalogue of the Exhibition at the Metropolitan Museum of Art*, November 19, 1977, through February 12, 1978, ed. K. Weitzmann, New York 1979, nr. 69, p. 81-2 (a wooden image in relief of individuals in a siege who have been punished by the *furca* [ca 400, Berlin, Staatliche Museen Preussischer Kulturbesitz, Frühchristlich-Byzantinische Sammlung, 4782]). Cf. Isid. Orig. 5.27.33-4 (Lindsay) for a description of the punishment (intro. § 3.5). A sixth century depiction of the baker suspended on a *furca* appears in the Vienna Genesis (*Österreichische Nationalbibliothek Cod. Vindob. Theol. Gr.* 31). Cf. E. D. Maguire, et al, *Art and Holy Powers in the Early Christian House*, plate 7.

³⁴⁴ J. Bishop, *The Death Penalty in the Byzantine Empire*, in: *Acts. XVIIIth International Congress of Byzantine Studies. Selected Papers, Main and Communications*. Moscow 1991, Volume 1. History, ed. by I. Sevchenko, G. G. Litavrin and W. K. Hanak, Shepherdstown, W.

text of Leo the Deacon, Alice-Mary Talbot and Denis F. Sullivan remark that “In middle Byzantine Greek the verb ἀνασκολοπίζω means ‘hang on a *phourka*’ rather than ‘impale’ ... The *phourka* (Lat. *furca*) was a forked stake to which offenders were affixed and exposed to ridicule; they might be subsequently executed by strangulation.”³⁴⁵ Isidore asserts that the death by *furca* was immediate, however, so there are some questions about the method used in execution.³⁴⁶

A sixth century letter on papyrus found on the Naqlun *kom* was addressed to an abbot or a bishop.³⁴⁷ Someone had burned a building called a *praetorium* according to the papyrus.³⁴⁸ An individual was found guilty of the arson and sentenced to the *furca*. The letter is unfortunately in a fragmentary state. The two relevant lines are:

He burned the *praetorium*. In the *praetorium* itself and after two ...
... of the *furca* and being guilty, many ...³⁴⁹

[τὸ πραιτώριον ἔκαυσεν. εἰς αὐτὸ τὸ πραιτώριον καὶ μετὰ δύο [τῆς φοῦρκας καὶ αἴτιον γενόμενον πολλὰ[...] κατὰ .η[

Although the two lines are incomplete there is little doubt that the guilty individual is sentenced to die on the fork.

Theophylact Simocotta’s description of the penalty is relevant to the question whether a noose was used in the act of execution or not. In 583 the sov-

Va. 1996, 51-64, esp. 58. Her position is also that of the Lexikon zur byzantinischen Gräzität [LBG] besonders des 9.–12. Jahrhunderts, ed. E. Trapp, Vienna 1994, s.v. ἀνασκολόπις and ἀνασκολοπισμός: “Aufhängen am Galgen (an der *furca*), Kreuzigung” (suspension on the gibbet [on the *furca*], crucifixion). “Kreuzigung” (crucifixion) is only relevant for texts that describe Roman executions before Constantine.

³⁴⁵ The History of Leo the Deacon. Byzantine Military Expansion in the Tenth Century, intro., trans., and annotations by A.-M. Talbot and D. F. Sullivan, with the assistance of G. T. Dennis and S. McGrath, Washington, D.C. 2005, 155. They refer to Trapp, LBG, s.v. ἀνασκολοπισμός, etc. along with the articles by Speck (Der Tod and Eine Quelle [he thinks that a noose was used also in the executions]). Cf. Leo Diaconus Historia 6.10 (CSHB 105,5-6 Hase) διςμυρίους τῶν ἐν τῷ ἄστει ληφθέντων ὁμῶς καὶ ἀπανθρώπως ἀνασκολοπίσαι (he cruelly and inhumanly affixed to a *furca* two thousand of the men found in the city, trans. slightly modified of Talbot, Leo, 155) and cp. Leo Historia 10.9 (174,6 Hase) for another use.

³⁴⁶ Intro. § 3.5.

³⁴⁷ P. Sijp. 61. Cf. T. Derda, 61. Byzantine Letter from Deir el-Naqlun, in: Papyri in Memory of P. J. Sijpesteijn (P. Sijp.), ed. by A. J. B. Sirks and K. A. Worp with the assistance of R. S. Bagnall and R. P. Salomons, ASP 40, [Oakville, CT] 2007, 381-5. The addressee is described with the adjectives μαχαριωτ(άτω) (καὶ) θεοφιλ(εστάτω) (most blessed and loved by God) in P. Sijp. 61 verso (frag. a).

³⁴⁸ Derda, Byzantine Letter, 383 notes that originally the official residence of the prefect in cities where *conventus* (trials) took place. The evidence indicates that the word came to refer to any building “of an official character.”

³⁴⁹ P. Sijp. 61 recto (frag. a) 4-5.

ereign Maurice, at the behest of the patriarch John, executed Paulinus for the alleged practice of magic.³⁵⁰

And so Paulinus was suspended on a stout beam, whose summit gaped upward; hanging in the attachment of this by the vertebrae in his neck together with his throat, he was throttled. Thus he ended his godless life, after having seen the beheading of his son.

ὁ μὲν οὖν Παυλῖνος ἀνασκολοπιζεται ξύλῳ στερεῶ τὴν πρὸς τὸ ἄναντες κεκηνότι ἀκρόρειαν, ἐνέρσει τε τούτου ἅμα τῷ φάρυγγι τοὺς ἐν τῷ τραχήλῳ σφονδύλους ἀπαγχονιζόμενος ἀπεπνίγετο, οὕτω τε τὸν ἀσεβῆ κατεστρέψατο βίον, προτεθεαμένος τὴν ἀποτομὴν τοῦ παιδός.³⁵¹

Paul Speck argues that the phrase τοὺς ἐν τῷ τραχήλῳ σφονδύλους ἀπαγχονιζόμενος ἀπεπνίγετο implies that a noose was used, but that is precisely what Theophylact does not say.³⁵² The clear implication is that the death was immediate and caused by the attachment (ἔνερσις) or act of fastening to the *furca* itself. It is true that some Byzantine manuscripts show individuals being hoisted to *furcae* by ropes, but in none of the manuscripts that Otto Kresten discussed are they depicted in death with a noose around their necks.³⁵³ One of the texts (whose illustration includes the rope) from Skylitzes describes the execution of Boulosoudes, a Hungarian noble, by King Otto I after a battle dated 10 Aug. 955: “Boulosoudes ... after he was captured was attached to a *furca* by Otto their [the Franks Φράγγων] king” (Βουλοσουδῆς ... ἀλὸς ἀνεσκολοπίσθη ὑπὸ Ὁτοῦ τοῦ βασιλέως αὐτῶν).³⁵⁴ The text from Skylitzes that describes the death of the thirty Saracens by command of Nasar is: “and thirty Saracens were attached to a *furca*” (καὶ ἀνεσκολοπίσθησαν οἱ τριάκοντα Σαρακηνοί).³⁵⁵ The twelfth cen-

³⁵⁰ J. H. W. G. Liebeschuetz, *Decline and Fall of the Roman City*, Oxford 2001, 267.

³⁵¹ Theophylact Simocatta 1.11.21 (BiTeu 62,8-13 de Boor/Wirth), trans. modified of M. and M. Whitby, *The History of Theophylact Simocatta. An English Translation with Introduction and Notes*, Oxford 1986, 36. In the Ethiopic version (*The Chronicle of John, Bishop of Nikiu*, Translated from Zotenberg’s Ethiopic Text, R. H. Charles, London 1916, 98.9 [p. 162]) he is executed by burning.

³⁵² Speck, *Eine Quelle*, 84.

³⁵³ Kresten, *Die Hinrichtung*, Images 15 (Cod. Matrit. Vitr. [the Skylitzes Matritensis] 26-2, f. 135^r [caption: Βολοσωδῆς (Bolosoudes); execution of a Hungarian noble in which the individual is raised to the top of the *furca* by a rope around his neck], 16 (Cod. Matrit. Vitr. 26-2, f. 98^v [caption: ὁ πατρίκιος Νικήτας Ὁροφᾶς τοὺς ἀλῶντας Ἀγαρηνοὺς τιμωρίας διαφόρους βάλλει (the *patrikios* Niketas Oruphas subjects the captive Muslims to different punishments); one of the prisoners is raised to the top of the *furca* by a rope around his neck]). Images of higher quality (and in color) may be found in V. Tsamakda, *The Illustrated Chronicle of Ioannes Skylitzes in Madrid*. With 604 Illustrations, Leiden 2002, figure 220 (fol. 98^v) with comments on 133-4, figure 324 (fol. 135^r) comments on 174.

³⁵⁴ Joannes Skylitzes *Synopsis historiarum* Const. VII iterum, 5 (CFHB.B 239,73-6 Thurn). Cf. Kresten, *Die Hinrichtung*, 124, and Image 15 (Cod. Matrit. Vitr. 26-2, f. 135^r).

³⁵⁵ Joannes Skylitzes *Synopsis historiarum* Basil I, 32 (155,31-32 Thurn). Cf. Kresten, *Die Hinrichtung*, 124, and Image 16 (Cod. Matrit. Vitr. 26-2, f. 98^v). In the illustration one

tury illustrator of the Madrid Skylitzes apparently conceived of these executions as death by *furca* and is certainly close enough to the date of Skylitzes (XI-XII C.E.).³⁵⁶

An epigram of Theodorus Prodromus describes the fate of Ai with this title: “Concerning the destruction of Ai and the suspension [by *furca*] of its king” (Εἰς τὴν πυρπόλησιν τῆς Γαὶ πόλεως καὶ τὸν ἀνασκολοπισμὸν τοῦ βασιλέως αὐτῆς).³⁵⁷ The illuminated manuscripts mentioned earlier show what kind of punishment a Byzantine author would have contemplated for the king. The astrologer Achmet uses the verb to describe the *furca* also:

From the Indians concerning suspension or suspension on the *furca*

If someone sees in a dream that he has been suspended by the judgment of a ruler from the neck by force and violence, he will be honored in proportion to the height of the suspension.

Ἐκ τῶν Ἰνδῶν περὶ ἀνασκολοπίσεως ἦτοι φουρκίσεως.

Ἐάν τις ἴδῃ κατ’ ὄναρ, ὅτι κρίσει τοῦ ἐξουσιαστοῦ ἐκρεμάσθῃ ἐκ τοῦ τραχήλου βίαι καὶ ἀνάγκῃ, ἀναλόγως τοῦ ὕψους τῆς κρεμάσεως ἀξιῶματι τιμηθήσεται.³⁵⁸

The *titulus* Achmet uses indicates that death by *furca* and ἀνασκολόπισις are synonyms for him. A passage in Theophanes Continuatus about the punishment of thirty disguised Muslims, which was carried out to scare Greek deserters, also supports the thesis. The invasion occurred in 880.³⁵⁹

He [Iohannes Creticus, praetor of the Peloponnese], obeying a royal decree, commanded that *furcae* be set up in Methone equal in number to the prisoners who had been sent and he suspended them as if they were leaders of the desertion who had been sent to him.

prisoner is raised to the top of a *furca* by a rope around his neck and two are tied to stakes, one of whom is pierced by five arrows and another who is being flayed. Another is being boiled to death while lying in a cauldron apparently filled with water [in the text some are boiled in pitch]. Cf. Synopsis historiarum Basil I, 31 (153,96-154,8 Thurn): different punishments including being flayed, having bands of skin torn from their necks to their heels, and others raised up with ropes and let down into cauldrons of boiling pitch (τοὺς μὲν τὴν τῆς σαρκὸς δορὰν ἀφαιρούμενος ... ἐκ δὲ τῶν ἱμάντας ἀπὸ τοῦ ἰνίου ἄχρι τῶν σφυρῶν μετ’ ὀδύνης ἐξέλκων ... ἄλλους σχοινίοις αἰωρῶν, εἴτα πρὸς λέβητας πίσεως καχλαζούσης μεστοὺς καθιμῶν). The *furca* belongs to the subsequent narrative (§ 32 [154,10-155,34 Thurn: an invasion from Africa repulsed by Nasar]), but the illustration is actually of the previous episode (§ 31 [153,74-154,9 Thurn: the punishment of the Cretans by Oruphas]).

³⁵⁶ On the MS, cf. C. Holmes, *Basil II and the Governance of Empire (976-1025)*, Oxford 2005, 77-8.

³⁵⁷ Theodorus Prodromus *Epigrammata in Vetus et Novum Testamentum*, Jos. 87.

³⁵⁸ Achmet *Oneirocriticon* 89. Cf. also the trans. in Oberhelman, *The Oneirocriticon*, 118 who apparently was unaware of the punishment by *furca*.

³⁵⁹ Cf. John Skylitzes, *A Synopsis of Byzantine History 811-1054*, trans. by J. Wortley, intro. by J.-C. Cheynet and B. Flusin and notes by J.-C. Cheynet, Cambridge 2010, 149 n. 129.

ὅς τῃ βασιλικῇ κελεύσει καθυπουργῶν ἰσαριθμούς τῶν ἀποσταλέντων δεσμίων ἐν Μεθώνῃ φούρκας στήναι προσέταξε καὶ τοὺς ὥς ἐξάρχους τῆς φυγῆς πεμφθέντας ἀνεσκολόπισεν.³⁶⁰

In this incident it is clear that the verb describes death by *furca*.

In 532 Eudaimon, prefect of Constantinople, punished seven individuals for murder during the Nika riots. Three of them died by the *furca*, and four were beheaded. Theophanes Confessor describes the difficulty of the process of suspension:

The prefect seized three of the rioters' fellow citizens and placed them on *furcae*. And one of them died immediately, but two fell from the *furcae*. They were again suspended, and they fell off again.

κρατήσας ὁ ἑπαρχος τρεῖς δημότας τῶν ἀτακτούντων ἐφούρκισεν αὐτούς. καὶ ὁ μὲν εἷς παραντὰ ἀπέθανεν, οἱ δὲ δύο ἔπεσον ἐκ τῆς φούρκας. πάλιν ἐκρεμάσθησαν, καὶ πάλιν ἔπεσον.³⁶¹

The crowd then prevented their execution. The narrative indicates that nooses were not used. Johannes Malalas describes the same execution, but in his version the *furcae* break:

And he decided on beheading for four and for the other three suspension. He had them led in a mock procession [presumably on the backs of asses]. When they had completed it, two of the ones who were suspended fell when the beams [i.e., *furcae*] broke – one being of the Blue faction and one belonging to the Green.

καὶ ψηφισάμενος τῶν μὲν τεσσάρων καρατόμησιν, τῶν δὲ τριῶν ἀνασκολοπισμόν, καὶ περιβωμισθέντων αὐτῶν ἀνὰ πᾶσαν τὴν πόλιν καὶ περασάντων αὐτῶν, καὶ τῶν μὲν κρεμασθέντων, ἐξέπεσαν δύο τῶν ξύλων ῥαγέντων, ἐνὸς μὲν Βενέτου, καὶ ἐτέρου Πρασίνου.³⁶²

Again it is clear from comparison of the parallel texts of Theophanes Confessor and Malalas that ἀνασκολοπισμός and the *furca* (φούρκα) are equivalent penalties. These events figured in the Nika riots.³⁶³ A text from Michael

³⁶⁰ Theophanes Continuatus Chronographia 5.62 (Theophanes Continuatus, Iohannes Caminiata, Symeon Magister, Georgius Monachus, ed. I. Bekker, CSHB, Bonn 1838, 303,16-8). Book Five is a life of Basil I based on material of Constantine VII. Cf. John Skylitzes, A Synopsis of Byzantine History 811-1054, trans. by J. Wortley, intro. by J.-C. Cheynet and B. Flusin and notes by J.-C. Cheynet, Cambridge 2010, xix. Cp. Johannes Skylitzes Synopsis historiarum Bas. I, 32 (155,31-32 Thurn) καὶ ἀνεσκολοπίσθησαν οἱ τριάκοντα Σαρακηνοί (quoted above) and Zonaras Epitome 16.10.4 (CSHB III, 431, 9-11 Büttner-Wobst) also describes their execution by *furca* (εἶτα καὶ αἰκίσασθαι σφᾶς καὶ διὰ τῆς ἀγορᾶς περιαγαγεῖν ἀνασκολοπισθῆναι τε ἀπαχθέντας εἰς Πελοπόννησον).

³⁶¹ Theophanes Conf. Chron. a.m. 6024 (BiTeu I, 184,4-7 de Boor).

³⁶² Malalas Chron. 18.71 (CFHB.B 395 Thurn). On the incident, cf. M. Meier, Die Inszenierung eine Katastrophe: Justinian und der der Nika-Aufstand, ZPE 142 (2003) 273-300, esp. 287.

³⁶³ Meier, Die Inszenierung, 274-5 and passim.

Psellus, describing the abandoned execution of a ruler guilty of sedition, makes it clear that the verb does not refer to impalement in Byzantine texts:

When the ruler had been suspended ... he took him down from the wood [i.e., *furca*/fork] when he was already suspended in the air, and took him (roused by anger) away.

ἀνασκολοπιζόμενον δὴ ἤδη τὸν τυραννήσαντα ... ἐκεῖνόν τε τοῦ ξύλου καθήρηκει μετέωρον ἤδη γεγυότα, καὶ τὸν αὐτοκράτορα ἔτι μᾶλλον τῷ θυμῷ ἐπαρθέντα κατήνεγκεν.³⁶⁴

Byzantine legal texts, based on Justinian's codification, also indicate that the *furca* was the preferred mode of execution and not impalement. A text from the *Novellae* of Leo VI Sapiens (866-912) illustrates this position.

For they [the laws concerning desertion] mean that the deserter, if at some time he should discern a resolution to repent and should wish to be healed from his previous sin by returning to his country, shall be handed over to be consumed by wild beasts or shall be suspended [on the *furca*].

Βούλεται γὰρ τὸν ὑτομοληκότα, εἴ ποτε πρὸς γνώμην μεταμελείας ἴδοι καὶ τὸ προλαβὼν ἀμάρτημα διὰ τῆς πρὸς τὰ οἰκεῖα ἐπαναστροφῆς ἰάσασθαι βουληθῇ, ἔκδοτον εἰς βρῶσιν θηρίους γίνεσθαι ἢ ἀνασκολοπιζέσθαι.³⁶⁵

Leo finds harm in this law. It is clear from a similar text in the *Digest* that punishment by *furca* is envisaged (*furca* has been substituted for the original *crux*):

A man who has deserted to the enemy and has returned shall be tortured and condemned to the beasts or to the *furca*, although soldiers suffer none of these [punishments].

*Is, qui ad hostem confugit et rediit, torquebitur ad bestiasque vel in furcam damnabitur, quamvis milites nihil eorum patiantur.*³⁶⁶

The *Basilica* also shows that the punishment envisaged by Leo is the fork.³⁶⁷

Those guilty of treason who reveal our counsels to our enemies are burned or attached to forks.³⁶⁸

³⁶⁴ Michel Psellus Epitaphius encomiasticus in patriarchem Michael Cerullarium (ΜΕΣΣΑΙΟΝΙΚΗΣ ΒΙΒΛΙΟΘΗΚΗΣ ΤΟΜΟΣ ΤΕΤΑΡΤΟΣ = Bibliotheca Graeca Medii Aevi 4, ed. K. N. Sathas, Athens/Paris 1874, 347). In Psellus *ibid.* (313 Sathas), Michael IV is the sovereign who shows his philanthropy toward the suspended ruler.

³⁶⁵ Leo VI Sapiens *Novellae* 67.

³⁶⁶ Modestinus 4 De poenis apud Dig. 49.16.3.10, trans. of Digest 4.407 slightly modified. A fourteenth century author continues this tradition. On the substitution see chapt. 5 § 1.5.

³⁶⁷ On this tenth century institutionalization of Justinian's law, cf. Schiller, *Roman Law*, 60-2. It is possibly based on a Greek epitome of ca 600 C.E.

³⁶⁸ *Basilica* 60.51.35 = 5 PS apud Dig. 48.19.38.1 *Transfugae ad hostes vel consiliorum nostrorum renuntiatores aut vivi exuruntur aut furcae suspenduntur*. Cf. chapt. 5 § 1.7 for a discussion of this text. Cp. Scholia in *Basilica* 21.2.11.4 (a remark on *Basilica* 60.51.35).

Οἱ αὐτόμολοι καὶ οἱ τὰς ἡμῶν βουλὰς τοῖς πολεμίοις ἀπαγγέλλοντες καίονται ἢ φουρκίζονται.

The *summa supplicia* (extreme penalties) of Roman law include the *furca* according to the *Basilica*.

The extreme penalty is to be attached to a *furca* and to be burned and beheaded and sent to the mines and to be exiled.

Ἐσχάτη τιμωρία ἐστὶ τὸ φουρκισθῆναι καὶ καυθῆναι καὶ ἀποκεφαλισθῆναι καὶ μεταλλισθῆναι καὶ περιορισθῆναι.³⁶⁹

In this text the *furca* has been substituted for the crucifixion originally specified by Callistratus. One of the earlier scholiasts discusses these penalties:

For the extreme penalty is to be condemned to the *furca* or to be burned alive. The latter penalty – being above all justly called an extreme penalty – nevertheless since it has been conceived to follow the *furca*, appears to have been devised at a later time than it [i.e., than the penalty of the *furca*]. And the penalty of beheading is an extreme penalty. After this one the penalty closest to death is condemnation to the mines and after these is exile to an island.

Ἄκρα μὲν γὰρ τιμωρία ἐστὶ τὸ φούρκᾳ κατακριθῆναι ἢ ζῶντα καυθῆναι· αὕτη δὲ ἡ τιμωρία, εἰ καὶ τὰ μάλιστα δικαίως ἄκρα λέγεται αὕτη, ὅμως ἐπειδὴ μετὰ τὴν φούρκαν ἐπενοήθη, μεταγενεστέρα αὐτῆς εἶναι δοκεῖ. Καὶ ἡ τῆς κεφαλῆς ἀποτομὴ ἄκρα τιμωρία ἐστίν. Μετὰ ταύτην πλησιάζουσα τῷ θανάτῳ ἐστὶν ἡ εἰς μέταλλον τιμωρία, μετὰ ταῦτα ἡ εἰς νῆσον δεπορτατίων.³⁷⁰

One should not conclude that the punishment of the *furca* was earlier than *crematio*, however, because the third century jurist Callistratus (from whom the text derives) was speaking of crucifixion.

Another text from the *Digest* in the *Basilica* specifies the *furca* for notorious bandits: Οἱ περιβόητοι λησταὶ ἐν οἷς ἐλήστευσαν τόποις φουρκίζονται (notorious bandits are attached to the fork in the places where they committed their acts of banditry).³⁷¹ The *Digest* has:

³⁶⁹ Basilica 60.51.26 = Callistratus 6 De cognitionibus apud Dig. 48.19.28.pr. Cf. the discussion in chapt. 5 § 1.7. Constantinus Hermenophulos Manuale legum 6.8.2 has Οἱ πρὸς τοὺς πολεμίους αὐτομολοῦντες καὶ τὰς ἡμετέρας βουλὰς ἀπαγγέλλοντες εἰς φούρκαν ἀναρτῶνται ἢ καίονται (those who desert to our enemies and who reveal our counsels are attached to the furca or are burned).

³⁷⁰ Scholia in Basilica 60.51.26.1 = Callistratus 6 De cognitionibus apud Dig. 48.19.28.pr.

³⁷¹ Basilica 60.51.26. Cp. Scholia in Basilica 60.51.26.1 and Ecloga (726 or 741 C.E.) Title 17, Section 50: Ὁ ληστεύων καὶ ἔνεδρα ποιῶν καὶ φονεύων, ἐν ᾧ κρατεῖται τόπῳ, φουρκιζέσθω (one who commits banditry or causes a sedition or murders, should be executed by the *furca* in the place in which he is captured). On the date of the compilation, cf. F. J. M. Feldbrugge, Law in Medieval Russia, Leiden 2009, 72. Cf. Constantinus Hermenophulos Manuale legum 6.6.25 Οἱ ἐπίσημοι λησταὶ ἐν τοῖς τόποις, ἐν οἷς ἐπλημμέλησαν, φουρκίζονται (notorious bandits are affixed to forks in the places where they have offended). Apparently the penalty of the *furca* continued well into the middle ages.

The practice which has been approved by most authorities has been to fasten [or nail] notorious brigands to the fork [*furca*] in the place which they used to haunt, so that by the spectacle others may be deterred from the same crimes,

*Famosos latrones in his locus, ubi grassati sunt, furca figendos compluribus placuit, ut et conspectu deterreantur alii ab isdem facinoribus ...*³⁷²

Again crucifixion has been replaced by the fork. Those guilty of sedition are condemned to the *furca* in the *Basilica*.

Those who provoke the people to sedition or a disturbance are, according to their social standing, either attached to the fork, or forced to fight beasts, or exiled.

Οἱ τὸν δῆμον ἐρεθίζοντες εἰς στάσιν ἢ θόρυβον πρὸς τὴν ἀξίαν αὐτῶν ἢ φουρκίζονται ἢ θηριομαχοῦσιν ἢ περιορίζονται.³⁷³

In this text the original *crux* (cross) of Ps. Paulus's *Sententiae* has been replaced by *furca* in the Digest.³⁷⁴ This evidence from Byzantine law shows that the fork was the preferred punishment and not impalement.

Consequently, a text such as the following from Cedrenus should be interpreted using the above results. Nicetas, the brother of Michael IV the Paphlagonian, executed about eighty Antiochenes (due to the murder of a tax-gatherer) by beheading some and by suspending others on *furcae* (ἀμφὶ μὲν τοὺς ἄνδρας ρ' ἀπέκτεινεν ἀποτεμών τε καὶ ἀνασκολοπίσας).³⁷⁵ A Byzantine sovereign cut the hands and feet off a rebel named Thomas (after the successful siege of Arcadiopouli in 823) and then attached him to a *furca*: καὶ ἀκρωτηριάσας αὐτοῦ χεῖρας καὶ πόδας καὶ οὕτως ἀνασκολοπίσας ...³⁷⁶

In Byzantine authors the word can be used for the type of suspension now called crucifixion when referring to executions before Constantine. Syncellus, for example, describes the deaths of Peter and Paul so: "The one was crucified upside down, as he himself requested, but Paul's consecrated head was cut off" (ὁ μὲν κατὰ κεφαλῆς ἀνασκολοπισθεὶς, ὡς αὐτὸς ἠρετίδατο, ὁ δὲ τὴν ἀγίαν ἐκτμηθεὶς κεφαλὴν Παῦλος).³⁷⁷

³⁷² Callistratus 6 De cognitionibus in Dig. 48.19.28.15. Trans. slightly revised of Digest 4.366. Cf. chap. 5 § 1.5 on the substitution of *furca* for *crux* here.

³⁷³ Basilica 60.51.35 = 5 PS apud Dig. 48.19.38.2

³⁷⁴ Cf. chap. 5 § 1.5.

³⁷⁵ Cedrenus Compendium historiarum (CSBH 2.510,16-7 Bekker)

³⁷⁶ Constantinus VII Porphyrogenitus De insidiis (Excerpta de insidiis, ed. C de Boor, Berlin 1905, 190,20-21) = Georgius Monachus Chronicon, 42 [Michael II the Stammerer] (BiTeu Georgius Monachus 2, 797,31-14 de Boor). Cf. J. B. Bury, History of the Eastern Empire from the Fall of Irene to the Accession of Basil I (A.D. 802-867), London/New York 1912, 463.

³⁷⁷ Georgius Syncellus Ecloga Chron. a.m. 5563 (BiTeu 415,4-6 Mosshamer).

10.5 ἀνασκολοπίζειν as a Penalty Used by non-Byzantines

In the case of penalties meted out by non-Byzantine rulers it is not clear whether crucifixion, transfixion, or the *furca* is the intention of the verb. The *Suda*, for example, in its entry on Ἀνασκινδυλευθῆναι defines it so: Ἀνασκινδυλευθῆναι: ἀνασκολοπισθῆναι, ἀνασταυρωθῆναι. ὁ ἐνεστὼς Ἀνασκολοπίζω.³⁷⁸ For the ambiguity of the first word, see the text from Plato's *Republic* above.³⁷⁹ A complete skeptic might translate this as "To be suspended: to be suspended, to be suspended, the present use being 'I suspend.'" Such a translation is useless, but it does indicate that both ἀνασκολοπισθῆναι and ἀνασταυρωθῆναι could be used for death by *furca* and crucifixion respectively, given the other evidence from Byzantine texts. In the case of the *Suda*, however, both words are probably synonyms. One of its entries is: Ἀνασταυρώθη: ἀνεσκολοπισθῆναι.³⁸⁰ The other possible meaning of ἀνασκολοπισθῆναι is "to be attached." The *Suda* includes this sentence in its entry on "Judith":

When Holofernes was besieging Jerusalem, a woman named Judith pretended to love him, and as he slept by night she cut off his head and attached (or perhaps "suspended") it to the wall, and she caused the Persians to flee.

πολιορκούντος τοίνυν Ὀλοφέρνης τὴν Ἱερουσαλήμ, γυνή τις, ὄνομα Ἰουδήθ, προσποιησάμενη τὴν φιλοῦσαν αὐτόν, ὥς ἐκάθειδε, νυκτὸς ἀπέτεμεν αὐτοῦ τὴν κεφαλὴν καὶ ἀνασκολοπίσασα ταύτην ἐπὶ τοῦ τείχους φυγεῖν παρῃσκέυασε τοὺς Πέρσας.³⁸¹

Jdt 14:1 has λαβόντες τὴν κεφαλὴν ταύτην κρεμάσατε αὐτὴν ἐπὶ τῆς ἐπάλξεως τοῦ τείχους ὑμῶν (take his head and suspend it from the parapet of your wall). Consequently the example from the *Suda* does not establish the meaning "impale" for the text. "Attached" is probably a better translation for the verb in the example (Judith) from the *Suda* than "impaled."

Hesychius has a use that clearly means "impale," but it probably refers to an old practice the Greeks attributed to certain barbarians:

On stakes as for roasting. Formerly they impaled evildoers, placing a sharp stake between the spine and the back, as fish are roasted on skewers.

σκόλοψιν ὥς ὀπτῶσιν· τὸ γὰρ παλαιὸν τοὺς κακούργοῦντας ἀνεσκολόπιζον, ὁξύνοντες ξύλον διὰ τῆς ῥάχεως καὶ τοῦ νώτου, καθάπερ τοὺς ὀπτωμένους ἰχθὺς ἐπὶ ὀβελίσκων.³⁸²

³⁷⁸ *Suda* A § 2071. Cf. intro. § 2.1 for comments on ἀνασκολοπίζειν.

³⁷⁹ In § 5.1 above.

³⁸⁰ *Suda* A § 2327. Cp. the similar A § 2322 Ἀνεσκολοπισμένον: ἀνασταυρωμένον.

³⁸¹ *Suda* I § 430.

³⁸² Hesychius *Lexicon* Σ § 1072, Sophocles *Aegeus* frag. 20 (Radt) κέστρον σιδηρᾷ πλευρᾷ καὶ κατὰ ῥάχιν ἤλαυνε παίων ("he struck, with an iron hammer, his ribs and spine"), Euripides *Cycl.* 643 ὅτι τὸ νῶτον τὴν ῥάχιν τ' οἰκτίρομεν ([the chorus leader,

LSJ, in its entry for ῥάχις, includes an examples of a use in which “individuals impaled beneath their spines moan long and piteously” (καὶ μύζουσιν οἰκτισμὸν πολλὸν ὑπὸ ῥάχιν παγέντες).³⁸³ The implication is that Hesychius (V-VI C.E.) considers this usage to be antiquated. But it does leave open the possibility that the word can mean “impale” in uses after Constantine in which rulers or magistrates that are not Byzantine carry out the penalty.

Chosroes I, after occupying Apamea in 540, had a Persian executed by suspension who had been accused of raping a daughter of one of the citizens. After hearing that Chosroes planned on executing the criminal, the people tried to save him.³⁸⁴

And although Chosroes agreed that he would hand the man over to them, he secretly suspended him not much later.

Χοσρόης δὲ ὁμολόγησε μὲν αὐτοῖς τὸν ἄνδρα ἀφήσειν, λάθρα δὲ ἀνεσκολόπισεν οὐ πολλῷ ὕστερον.³⁸⁵

This text could be translated “impaled,” but one needs to evaluate Persian practice at this time closely before a final decision can be made.

afraid of the Cyclops] because we have pity on our back and spine), Rhes. 514 ἀμπίρας ῥάχιν ([Rhesus, the Thracian, with regard to his desired punishment of Odysseus] impale through the spine). Cf. Halm-Tisserant, *Realités*, 13-5, 162 and her discussion of *apotympanismos* – which she differentiates clearly from the punishment envisioned by Hesychius (*ibid.*, 163-7). In her view impalement was never a Greek capital penalty.

³⁸³ LSL s.v. ῥάχις from Aeschylus *Eum.* 189-90 [Apollo describing the place of punishment suitable for Orestes]. Halm-Tisserant, *Realités*, 14-5, 26-7 notes that this penalty belongs to prehistorical times.

³⁸⁴ Procopius *De bellis* 2.11.37.

³⁸⁵ Procopius *De bellis* 2.11.37, my trans. done with ref. to Procopius, *History of the Wars*, vol. 1-5, LCL, ed. and trans. H. B. Dewing, London/New York 1914-28, 1.361. For the date, cf. J. H. Humphrey, *Roman Circuses. Arenas for Racing*, Berkeley 1986, 534. Cp. Procopius *De bellis* 2.17.11 (another suspension by Chosroes) 3.3.33 (in 428 Gontharis [= Gundericus, cf. PLRE s.v.] was suspended by the Germans in Spain, according to a tradition of the Vandals), 3.12.10 Belisarius suspended (ἀνεσκολόπισε) two Massagetae, 4.1.8 Belisarius suspended (ἀνεσκολόπισεν) a Carthaginian named Laurus who was guilty of treason, 4.18.18 Germanus, the military commander in Phoenice Libanensis, suspended (ἀνεσκολόπισεν) a conspirator named Maximinus, 5.10.48 When a Neopolitan leader (who had fought against Belisarius) died, the Neopolitans suspended his body (ἀνεσκολόπισαν). In *Historia arcana* 17.3 Theodora has a governor (Callinicus) suspended (ἀνεσκολόπισεν) because he put two members of the Blues faction to death for murder. In *Historia arcana* 27.19 Liberius, governor of Alexandria, at the behest of Theodora suspended Arsenius (ἀνεσκολόπισε). Procopius avoids verbs based on *σταυρός* for executions, and all the Byzantine executions were probably by *furca*. On the “thoroughly Christian” nature of Procopius’s writings, cf. A. Cameron, *Procopius and the Sixth Century*, Berkeley 1985, 113-32, quote from 113.

Procopius describes an invasion of Illyricum and Thrace by the Sclaveni (Slavs) during the 550s in which their Roman victims were slaughtered by impalement.

Now they killed their victims, not with sword nor spear, nor in any other accustomed manner, but by planting very firmly in the earth stakes which they had made exceedingly sharp, and seating the poor wretches upon these with great violence, driving the point of the stake between the buttocks and forcing it up into the intestines ; thus did they see fit to destroy them.

ἐκτεινον δὲ τοὺς παραπίπτοντας οὕτε ξίφει οὕτε δόρατι οὕτε τῷ ἄλλῳ εἰωθότι τρόπῳ, ἀλλὰ σκόλοπας ἐπὶ τῆς γῆς πηξάμενοι ἰσχυρότατα, ὅξεϊς τε αὐτοὺς ἐς τὰ μάλιστα ποιησάμενοι, ἐπὶ τούτων ξὺν βίᾳ πολλῇ τοὺς δειλαίους ἐκάθισον, τήν τε σκολόπων ἀκμὴν γλουτῶν κατὰ μέσον ἐνείροντες ὀθοῦντές τε ἄχρι ἐς τῶν ἀνθρώπων τὰ ἔγκατα, οὕτω δὲ αὐτοὺς διαχρήσασθαι ἤξιουν.³⁸⁶

This does not establish the meaning of the verb ἀνασκολοπιζῶ, but it does indicate that Procopius knew of the practice of impalement, which he expresses with great clarity in this text – that uses the noun σκόλοπας instead of the verb. As Samuelsson has argued, it is dangerous to use the etymology of the verb to define its meaning.³⁸⁷ Quite important is a point that Bishop has made: Procopius did not think impalement was the usual manner of execution, because he had not “seen it before.” In other words, the impalements he saw were unique. Her conclusion is that ἀνασκολοπιζειν cannot mean impalement in Procopius.³⁸⁸

³⁸⁶ Procopius *De bellis* 7.38.20, trans. of Dewing, Procopius, 5.27. Cf. Mitchell, *A History of the Later Roman Empire*, 404. The king of the Avars used a similar method after the successful siege of Forum Iulii (ca 610) to execute Romhilda, after being married to her for a night. The wife of the duke of the city, she had betrayed it to the king on the promise of marriage. He first subjected her to rape by twelve men and then had her impaled, presumably another even more atrocious form of rape in this case. Paulus Diaconus *Historia Langobardum* 4.38 (MGH.SRL 1, 130,23-5 Waitz): *Postmodum quoque palum in medio campum configi praecipiens, eandem in eius acumine inseri mandavit, haec insuper exprobrando inquit: “Talem te dignum est maritum habere”* (Afterward he ordered a stake to be driven into the middle of a field, and commanded that she be thrust onto the point of the stake. He reproached her with these words, “You are worthy to have such a husband”). Cf. Renate Berger (Pars pro toto: Zum Verhältnis von künstlerischer Freiheit und sexueller Integrität, in: *Der Garten der Lüste. Zur Deutung der erotischen und Sexuellen bei Künstlern und ihren Interpreten*, ed. R. Berger and D. Hammer-Tugendhat, Köln 1985, 150-99, esp.192) who notes that the Avar ruler’s words leave little doubt that the impalement is “*per vaginam*.”

³⁸⁷ Samuelsson, *Crucifixion*, 274.

³⁸⁸ Bishop, *The Death Penalty in the Byzantine Empire*, 56-7.

10.6 Priscus (Fifth Century)

Priscus was from Panium in Thrace, and it is difficult to know if he was pagan or Christian.³⁸⁹ In the texts below he describes executions carried out by Attila, hence one cannot rule out crucifixion, although it had been long abolished as a Byzantine practice. After the death of Attila's father, Rua, the Huns and "Romans" made a treaty in which it was agreed that all Scythian (i.e. Hunnic) fugitives would be returned to Attila and his brother Bleda.

The fugitives amongst the Romans were handed back to the barbarians, amongst whom were Mama and Atakam, children of the royal house. Those who received them exacted the penalty for their flight by suspending them near to Carsum, a fortress in Thrace.

οἱ δὲ παρὰ Ῥωμαίους καταφυγόντες ἐξεδόθησαν βαρβάροις, ἐν οἷς καὶ παῖδες Μάμα καὶ Ἀτακάμ τοῦ βασιλείου γένους, οὓς ἐν Καρσῷ φρουρίῳ Θρακίῳ οἱ παρειληφότες ἐσταύρωσαν δίκας αὐτοὺς πραττόμενοι τῆς πυγῆς.³⁹⁰

The reference of ἐσταύρωσαν could be impalement, crucifixion or the *furca*. E. A. Thompson interprets the text as a crucifixion of the royal boys.³⁹¹ On the other hand, Peter Heather translates the text as "impaled," and further notes that "Impaling seems to have been the main method of dealing with most problems in the Hunnic world. Priscus later witnessed the impaling of a captured spy and the gibbeting of two slaves who had killed their Hunnic masters in the midst of battle."³⁹² The multifarious views of these scholars indicate the ambiguities of the words for suspension used by Priscus.

³⁸⁹ Cf. D. Rohrbacher, *The Historians of Late Antiquity*, London 2002, 82-92 esp. 82, 87. Rohrbacher (ibid. 82) argues that he lived "at least into the 470s."

³⁹⁰ Priscus frag. 1,45-9 (Prisci Panitae fragmenta, ed. F. Bornmann, Florence 1979) = frag. 2 (226,40-3 Blockley) = Constantinus VII Porphyrogenitus Exc. de legationibus Rom.1 (Excerpta historica iussu imp. Constantini Porphyrogeniti confecta, vol. 1/1-2, ed. C. de Boor, Berlin 1903, 122,16-20). Const. VII identifies the fragment as one from the "Gothic History of Priscus, rhetor and sophist" in the *titulus* to De leg. Rom. 1 (Ἐκ τῆς ἱστορίας Πρίσκου ῥήτορος καὶ σοφιστοῦ τῆς Γοτθικῆς [121,2-3 de Boor]). Trans. slightly modified of R. C. Blockley, *The Fragmentary Classicising Historians of the Later Roman Empire*. Eunapius, Olympiodorus, Priscus and Malchus. II Text, Translation and Historiographical Notes, Liverpool 1983, 227 who has "impaled" for ἐσταύρωσαν. P. J. Geary, *Barbarians and Ethnicity*, in: *Late Antiquity. A Guide to the Postclassical World*, ed. by G. W. Bowersock, P. Brown, and O. Grabat, Cambridge 2000, 107-29, esp. 118 recognizes the ambiguity: "Those who were returned were impaled or crucified."

³⁹¹ E. A. Thompson, *The Huns*, Oxford 1996, 85. This is also the interpretation of O. Maenchen-Helfen, *The World of the Huns. Studies in Their Culture and History*, Berkeley 1973, 91 (who also notes that Carso is now Harşova).

³⁹² P. Heather, *The Fall of the Roman Empire. A New History*, London 2005, 321. Heather further complicates matters in his discussion of another text in which he writes "Attila could have had them all impaled at any moment ... Rather than gibbeting everyone in sight ...". Cf. ibid., 315 (with reference to Attila's discovery of the plot against him in which Vigilas was implicated). See Priscus frag. 12,1-16 (Bornmann) = frag. 15.2 (296,1-14 Block-

Priscus's account of the embassy of Maximinus to Attila in 448/9 includes an episode in which Attila asked the interpreter Vigilas why all the Scythians who had deserted to the Romans had not been given up. Vigilas replied that there were none, since all had already been handed over. Attila responds with a threat:

Attila became even more angry and abused him violently, shouting that he would have suspended him and left him as food for the birds if he had not thought that it infringed the rights of ambassadors to punish him in this way for the shamelessness and effrontery of his words.

χαλεπήνας μάλλον καὶ αὐτῷ πλεῖστα λοιδορησάμενος μετὰ βοῆς ἔλεγεν ὡς αὐτὸν ἀνασκολοπίσας πρὸς βορὰν οἰωνοῖς ἐδεδώκει ἄν, εἰ μὴ γε τῷ τῆς πρεσβείας θεσμῷ λυμαίνεσθαι ἐδόκει καὶ ταύτην αὐτῷ ἐπὶ τῇ ἀναιδείᾳ καὶ τῇ τῶν λόγων ἰταμότητι ἐπιθεῖναι δίκην.³⁹³

The passage is ambiguous and could refer to crucifixion, impalement, or the *furca*.

Constantius, one of Attila's secretaries, had been sent to him by a Roman *dux*, Aetius. He gave some golden bowls from Sirmium (entrusted to him by the bishop there) to Silvanus, a bank manager in Rome as surety for a loan. The event may have taken place in 441/2 and was in the Danube region, perhaps at Attila's headquarters.³⁹⁴

However, after the capture of the city [Sirmium], Constantius ignored the rights of the Scythians and, coming to Rome on business, handed over the bowls to Silvanus and received from him gold on condition that either within a stated period of time he repay the gold with interest and recover the sureties or Silvanus do with them as he wished. But Attila and Bleda came to suspect Constantius of treachery and suspended him ...

ὁ δὲ Κωνσταντίος μετὰ τὸν τῆς πόλεως ἀνδραποδισμόν ὀλιγορήσας τῶν συνηθῶν ἐς τὴν Ῥώμην κατὰ προᾶξιν τινα παραγίνεται καὶ κομίζεται παρὰ τοῦ Σιλβανοῦ χρυσίον τὰς φιάλας δούς, ὥστε ῥήτοῦ χρόνου ἐντὸς ἢ ἀποδόντα τὸ ἐκδανεισθὲν χρυσίον ἀναλαβεῖν τὰ ἐνέχυρα, ἢ αὐτοῖς τὸν Σιλβανὸν ἐς ὃ τι βοῦλοιο χρήσασθαι. τοῦτον δὲ τὸν Κωνσταντίον ἐν ὑποψίᾳ προδοσίας ποιησάμενοι Ἀττίλας τε καὶ Βλήδας ἀνεσταύρωσαν.³⁹⁵

ley) – there are no suspension words in the fragment. Impalement needs to be distinguished from “gibbeting,” which is inherently ambiguous.

³⁹³ Priscus frag. 8,207-10 (Bornmann) = frag. 11.2 (254,184-7 Blockley) = Const. VII Porph. Exc. de leg. Rom. 3 (128,14-7 de Boor). Trans. slightly modified of Blockley, *The Fragmentary Classicising Historians* 2.255. Blockley translates ἀνασκολοπίσας as “impaled.” as does M. D. Blodgett, *Attila, flagellum Dei? Huns and Romans, Conflict and Cooperation in the Late Antique World*, PhD Thesis U. of California, Santa Barbara 2007, 14.

³⁹⁴ Blockley, *The Fragmentary Classicising Historians*, 384, n. 50. On the headquarters, cf. *ibid.*, 384, n. 43 and 385, n. 53.

³⁹⁵ Priscus frag. 8,378-85 (Bornmann) = frag. 11.2 (262,336-264,342 Blockley) = Const. VII Porph. Exc. de leg. Rom. 3 (133,5-12 de Boor). Trans. slightly modified of Blockley, *The Fragmentary Classicising Historians*, 263-5. Blockley translates ἀνεσταύρωσαν as

The verb may refer to a crucifixion, because Priscus does not use ἀνασκολοπίζειν and because of its (ἀνεσταύρωσαν) use in the text below (for “suspended”).

The next text of Priscus would seem to point towards execution by impalement or crucifixion as the meaning of ἀνασκολοπίζειν. Priscus describes the ambassadors’ journey away from an audience with Attila.

While we were on our journey and had halted near to a certain village, a Scythian, who had crossed from Roman to barbarian territory in order to spy, was captured. Attila ordered him suspended. On the following day, while we were traveling through other villages, two men who were in slavery amongst the Scythians were brought in, their hands tied behind them, because they had killed their masters in battle. They suspended them by affixing their heads to two lengths of wood with v-shaped clefts at the top.

ποιουμένων δὲ ἡμῶν τὴν πορείαν καὶ πρὸς κόμῃ καταλυσάντων τινί, ἦλθω Σκύθης ἀνὴρ κατασκοπῆς ἕνεκα ἐκ τῆς Ῥωμαίων ἐς τὴν βάρβαρον διαβεβηκὼς χώραν· καὶ αὐτὸν Ἀτιλάς ἀνασκολοπισθῆναι παρεκελεύσατο. τῇ δὲ ἐπιούσῃ δι’ ἐτέρων κωμῶν πορευομένων ἡμῶν, ἄνδρες β’ τῶν παρὰ Σκύθαις δουλευόντων ἦγοντο ὀπίσω τῷ χειρὶ δεδεμένῳ ὥς τοὺς κατὰ πόλεμον ἀνελόντες δεσπότας· καὶ ἐπὶ ξύλων β’ κεραίας ἐχόντων ἀμφοῖν τὰς κεφαλὰς ἐμβαλόντες ἀνεσταύρωσαν.³⁹⁶

From the discussion above it seems clear that in the case of the two slaves, Priscus describes an execution by *furca*. What is quite clear is that Priscus uses ἀνεσταύρωσαν to mean something other than “impale” in this passage. He contrasts the death of the Scythian spy with the penalty of the *furca*, however, and so the Scythian may have died by either crucifixion or impalement.

11 Conclusion

Crucifixion and related forms of execution have a rich and somewhat ambiguous history in Greek texts. Many are clear enough to indicate Roman crucifixions. There is a verifiable result concerning the verbs based on σταυρός: although there are many clues that they mean crucifixion in the texts surveyed above, there are no explicit texts (i.e., texts with additional semantic clues) in which they are used to describe a living person who is impaled (or hanged by a noose). To put this in another way: many of the texts above using verbs such as ἀνασταυρόω have additional semantic clues that

“crucified.” M. Whitby, *The Balkans and Greece, 420-602*, CAH² XIV (2000) 701-30, 708 depicts the death as a crucifixion.

³⁹⁶ Priscus frag. 8,901-9 (Bornmann) = frag. 14 (292,58-65 Blockley) = Const. VII Porph. Exc. de leg. Rom. 3 (147,13-20 de Boor). Trans. slightly modified of Blockley, *The Fragmentary Classicising Historians*, 293 (Blockley translates ἀνασκολοπισθῆναι as “impaled” and ἀνεσταύρωσαν as “gibbeted”). On the “horns” (κεραίας) as an image for the elements of a cross, cf. intro. § 2.1, 3.1.2.

indicate crucifixions, but there are no semantic clues using the same verbs that indicate impalements of living bodies. Consequently, when examining texts from the Roman era that use *stauros* and the associated verbs for penal suspension, crucifixion is the probable reference. The narratives often provide many useful details that illustrate the Roman penalty. Josephus, Chariton, Lucian, and Artemidorus are examples of authors without whom our knowledge of crucifixion would be impoverished. The texts leave one somewhat skeptical whether the ancient Greeks practiced crucifixion in the same way the Romans later did. The archaeological remains and some texts, however, do encourage the scholar to assume that exposure (nailed or not to boards) was occasionally one of the Greek forms of execution. It is clear that the Byzantines substituted the *furca* for the cross, and probably the *furca* was a more humane form of execution than the Roman *crux*.

Chapter Four

Hebrew and Aramaic Texts

This chapter will first survey the question of penal suspension in the ancient Near East. Then I will review occurrences of תלה (*tlh*) in various texts ranging from the Dead Sea Scrolls to rabbinic sources. That section will be followed by an investigation of צלב (*slb*) in Hebrew and Aramaic contexts. I will briefly consider the question of crucifixion in Muslim texts.

The definition of crucifixion as “execution by suspension” is adequate for this chapter, but some of the crucifixion language in the texts below could be translated with “impale.” צלב seems to be the Hebrew/Aramaic verb that comes closest to the English verb “crucify,” but Michael Sokoloff defines it as “impale/crucify.” In only one instance in his article, however, does he translate a text that uses the verb with “impale” (all others he views as crucifixions).¹ Marcus Jastrow also defines the verb “hang, impale.”² Géza Vermes, in a discussion of Roman crucifixion and the taboo surrounding it until modern times, makes this perceptive comment about such translations as those of Jastrow, “If the connection between the cross and Jesus, and its anti-Semitic reverberation inspired by the popular cry, ‘Crucify him, crucify him’, are also taken into account, it is easy to grasp why the subject was kept under cover in Jewish circles.”³ At no point below is it explicitly clear, however, that the verb means “impale,” and there are many indications (such as speaking from a beam or cross) that the verb implies suspension and not impalement. “Suspend” or “crucify” is the preferred translation. In addition the verb can refer to post-mortem suspension.⁴ The meaning of the verb תלה is unclear, and in the book of Esther, for example, it can mean “suspend” or

¹ M. Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period*, Ramat-Gan/Baltimore, 2002, s.v. צלב. The exception is y. Hag. 78a (cf. § 3.11 below). In Akkadian *šilbu* is “a crosswise arrangement (of bandages or wood)” (CAD 16, 187).

² M. Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature*, 2 vols., London/New York 1903, s.v. צלב.

³ G. Vermes, *Was Crucifixion a Jewish Penalty*, *Standpoint* 51 (April 2013) 66-9 (<http://standpointmag.co.uk/node/4936/full>), last accessed 18 Dec. 2013.

⁴ Chapman, *Ancient Jewish and Christian Perceptions*, 25 with ref. to Tg. Onq., Tg. Neof. and Tg. Ps.-J. Deut 21:22, and Tg. Josh. 10:26.

more specifically “impale” or even “crucify.”⁵ It can also be used for individuals who hang themselves with a noose.⁶ A review of penal suspension in the culture of the Middle East is appropriate first.

1 Impalement in Middle Eastern Texts

In the Code of Hammurabi § 153, they “put on a stake” (ina gašišim išakkanūši) a woman who has her husband killed for the sake of another man.⁷ It is not clear if this is a pre-mortem or post-mortem suspension. In Middle Assyrian Law a woman who has an abortion suffers this penalty: “One impales her (i-za-qu-pu-ú-ši) and leaves her unburied.”⁸ Even if she is already dead from the abortion procedure her corpse is still impaled. The Hebrew and Aramaic cognate for the Akkadian verb is וִקַּח. Ashurnasipal II (ruler of Assyria 883-859 BCE), in the Calah Annals text, boasts of this accomplishment: “I captured soldiers alive by hand. I impaled (them) on stakes in front of their cities.”⁹ He also explicitly boasts concerning his siege of Uda that “around his [Lapṭuri’s] city I impaled men alive on stakes.”¹⁰ The bronze gates of Balawat depict various conquests of Shalmaneser III (858-824 B.C.E.), and in several plates individuals are impaled lengthwise through the

⁵ In Esth 7:9 Haman may have been suspended or impaled. Sokoloff, *A Dictionary*, s.v. הָלַךְ § 3 defines it as “to execute by hanging” and refers to EchR 157:8 on Lam 5:12.

⁶ Gen. Rab. 65:22 in § 3.9 below and b. Pes. 112a (also § 3.9) are two such examples. The latter text is a metaphor.

⁷ L153 in M. E. J. Richardson, *Hammurabi’s Laws. Text, Translation and Glossary*, London 2004, 88 (text), 89 (trans.). In the transcriptions of Akkadian below, I have reproduced those given by the scholar in question (consequently, hyphens that separate the cuneiform signs [and which sometimes indicate construct states] appear in some and not in others). I thank Professor Donald Schley for help with the Akkadian.

⁸ Assyrian Law Code 53 in J. M. Baumgarten, *Studies in Qumran Law*, Leiden 1977, 178 with reference to G. R. Driver and J. C. Miles, *The Assyrian Laws*, Oxford 1935, 420-1 [in CAD 21, 53 (s.v. zaqāpu) the ref. is given as KAV 1 vii 96 = Ass. Code § 52]. Baumgarten also refers to the “impalement of military prisoners before and after death” in CAD 1 s.v. alālu [suspend], CAD 5 s.v. gašišu [stake (for impalement)], and CAD 21 zaqāpu [stake].

⁹ S. C. Melville, B. A. Strawn, B. B. Schmidt and S. Noetel, *Neo-Assyrian and Syro-Palestinian Texts I*, in: *The Ancient Near East. Historical Sources in Translation*, M. W. Chavalas, ed., Oxford et al., Oxford 2006, 280-330, esp. 288 (III 84). Cp. *Cuneiform Parallels to the Old Testament*, ed. R. W. Rogers, New York/Cincinnati 1912, 287 III 84: “I took men alive and impaled them (u-za-ḳip ina) on stakes before their cities.” In II 109, the king affirms “I impaled 700 troops on stakes before their gate.” Trans. in K. L. Younger, *Ancient Conquest Accounts. A Study in Ancient Near Eastern and Biblical History Writing*, Sheffield 1990, 98 (text p. 97: GIŠ zi-qi-pi ū-za-ḳip).

¹⁰ CAD 21, 58 s.v. zaqāpu with ref. to *Annals of the Kings of Assyria*, vol. 1, ed. E. A. W. Budge and L. W. King, London 1902, 380 III 112. Cp. the impalement of the living in *ibid.* 379 III 108.

soft tissue between their legs.¹¹ The annals of Tiglath-pileser (745-727 BCE), after an attack on Rezin of Damascus, states that “his chief ministers I impaled alive (bal-ṭu-us-su-nu¹² [a-na] za-qi-pa-a-ni) and had his country behold them.”¹³ Another king (of Bit-Shilani) did not escape as Rezin did: “Nabushabshi, their king, I impaled before the gate of his city and exposed him to the gaze of his countrymen.”¹⁴ Carly Lorraine Crouch describes the three figures who are impaled on stakes just outside the walls of the city of Nimrūd. She notes that the only “person who appears to have noticed the impaled figures is a woman weeping on the nearest rampart” and that “In the inscriptions bodily maltreatment appeared to target almost exclusively the leading players of an opposing city or state, rather than the general public, and impalement in particular was only mentioned with respect to leaders (not common soldiers).” In this figure the impaled individuals, however, are probably not leaders.¹⁵ The well-known stone panel of Sennacherib (700-681 B.C.E.) depicts three men impaled before the gate of Lachish.¹⁶ The Bisitun inscription of Darius I probably mentions impalement and not crucifixion of various figures.¹⁷ Ezra

¹¹ L. W. King, *Bronze Reliefs from the Gates of Shalmaneser*, London 1915, Pl. VII (Urartu, 2 victims = British Museum ME 124659), XXV (Dabigu, six victims = ME 124658), LVI (Kulisi, one victim impaled, without hands or feet and another man, not impaled, being mutilated [hands and feet cut off], ten heads attached to the gates = ME 124656).

¹² The root of this word means “alive.”

¹³ Cf. the text and trans. in C. L. Crouch, *War and Ethics in the Ancient Near East. Military Violence in Light of Cosmology and History*, Berlin 2009, 39 with ref. to H. Tadmor, *The Inscriptions of Tiglath-Pileser III King of Assyria. Critical Edition, with Introductions, Translations and Commentary*, Jerusalem 1994, Ann. 23:9'-10'.

¹⁴ Crouch, *War and Ethics*, 40, with ref. to Tadmor, *Inscriptions*, Summ. 1:9-10. She also refers to Tadmor, *Inscriptions*, Ann. 11:7 for a text in which “the warriors of several cities were impaled during the second campaign.” The rest of the warriors had their hands amputated.

¹⁵ Crouch, *War and Ethics*, 40, with ref. to *Assyrian Sculptures in the British Museum from Shalmaneser III to Sennacherib*, London 1939, Pl. XIV = ANEP 368 (victims of Tiglath-pileser III).

¹⁶ ANEP 373 = ME 129406 in the British Museum.

¹⁷ Rev. of R. Schmitt, *Epigraphisch-exegetische Noten zu Dareios' Bīsītūn-Inschriften*, SÖAW.PH 561, *Kommission für Iranistik* 25, Vienna 1990 by D. N. Mackenzie, *Journal of the Royal Asiatic Society of Great Britain and Ireland* 2 (1992) 456-7 (DB III 91-2 “Arakha and the men who were his foremost followers were impaled in Babylon” [Persian]). L. W. King and R. C. Thompson, *The Sculptures and Inscription of Darius the Great on the Rock of Behistūn in Persia*, London 1907, 59 translate the passage (DB III 91-2) with “crucified” (Persian). Cp. King and Thompson, *ibid.*, DB II 76 (p. 37 [uzmayāpatiy akunavam “fixed him on a stake (uzma),” Persian; trans. Brown]), II 56 (p. 123 [Susian]), 60 (p. 183 “then upon a stake (za-qi-pi) did I affix him” [Babylonian; trans. Brown]). In these texts Phraortes’ nose and ears are cut off and his eyes put out before his impalement, and King and Thompson translate with “crucify.” The translations of the Old Persian in DB II 76 and the Babylonian in DB § 60 are from J. P. Brown, *Israel and Hellas*, vol. 3, BZAT 231, Berlin 2001, 108. R. Schmitt, *The Bisitun Inscriptions of Darius the Great. Old Persian Text*, London 1991, 61,

6:11 comprises an edict of Darius which threatens one who disobeys with impalement (a beam will be taken from his house and he will be lifted up and impaled on it).¹⁸ Tg. Esth I 7:9 uses a phrase almost identical to that of Ezra 6:11 to describe Haman's execution.¹⁹

An Egyptian text of Merenptah (1213-1203 B.C.E.) has: They (the Libyans) are cast to the ground, (?) by the hundred-thousands and ten-thousands, the remainder being impaled (put to the stake) on the South of Memphis."²⁰ The Papyrus Abbott in the British Museum describes the trial of some tomb-robbers who, when found guilty, were sentenced to impalement during the reign of Ramesses IX (1126-1108 B.C.E.). The governor of Thebes, Paser, notes five cases of tomb violation that are capital offenses: "They [the scribes] also wrote them down, given that they could not be passed over in silence, for they are serious offenses punishable by mutilation, impalement, and all sorts of like punishment."²¹ A fragmentary Mari text decrees that

65, 67 translates DB II 76, III 49-52, and III 91-2 with "impaled." These texts use the term for stake (uzma).

¹⁸ יתנסח אש מן ביתה וזקיף יתמחא עלהי. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 170 for comment on this text, which can be translated a number of ways. H. G. M. Williamson (Ezra Nehemiah, WBC 16, Waco 1985, 69, 72, 83), e.g., believes it refers to being raised on the beam and then flogged. L. W. Batten (*A Critical and Exegetical Commentary on the Books of Ezra and Nehemiah*, ICC, New York 1913, 147), alternatively, renders the text "let him be lifted up and stuck upon it (the beam)." J. Blenkinsopp (*Ezra-Nehemiah. A Commentary*, OTL, Philadelphia 1988, 126) considers "upright, he shall be struck upon it" (i.e., flogged), but believes that the harsher alternative ("impaled") fits the context better. HALOT s.v. זקיף translate with "impaled," which accords well with the Akkadian cognate, but under that entry suggest "a beam ... on to which he will be fixed upright." However HALOT s.v. מחא translate with "be impaled on a stake" (and were apparently unable to come to a consensus). F. C. Fensham (*The Books of Ezra and Nehemiah*, Grand Rapids 1982, 91) refers to ANEP § 362 (Shalmaneser III against Dabigu in Syria, six impaled victims), 368, 373 for evidence of impalement in the Near East.

¹⁹ יתנסח אש מן ביתה וזקיף יתמחא עלהי. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 169.

²⁰ K. A. Kitchen, *Ramesside Inscriptions, Historical and Biographical*, Oxford 1975-90, 8 vols., IV, 34/13-14 = idem, *Ramesside Inscriptions. Merenptah and the last Nineteenth Century*. Translated and Annotated, IV, Oxford et al. 2003, 1 in Younger, *Ancient Conquest Accounts*, 317.

²¹ P. Vernus, *Affairs and Scandals in Ancient Egypt*, trans. D. Lorton, Ithaca 2003, 8. Papyrus Abbott 6,9-17. Cf. D. Lorton, *The Treatment of Criminals in Ancient Egypt*, JESHO 20 (1977) 2-64, esp. 34-5, with ref. to the penalty of mutilation and impalement in five cases of tomb robbery in P. BM 10052, 7,2-3 (T. E. Peet, *The Great Tomb-Robberies of the Twentieth Egyptian Dynasty*, 2 vols., Oxford 1930, I,149); 8,25-6 (Peet, *ibid.*, 151); 10,12 (Peet, *ibid.*, 152); 10,17; 11,19 (Peet, *ibid.*, 153). P. BM 10052 comprises the dockets on the verso of Papyrus Abbott.

“those who ran away, possibly from the military draft, were to be impaled.”²² This context is relevant for understanding the use of suspension language in the Hebrew Bible.

2 *tlh*

The verb תלה is ambiguous in the Hebrew Bible. The uses in Esther for penal suspension could be references to impalement given the use of the penalty by the Assyrians and Persians.²³ The commentators are not in agreement, however, with some preferring hanging by the neck or even crucifixion.²⁴ The translations of the verses in question in the LXX (cf. chapt. 3 § 1.8) by forms of κρεμάννυναι (Esth 6:4, 8:7, 9:13), κρεμάσθῃναι (5:14, 7:10, 9:25) or σταυρωθῇναι (7:9) do not establish that the Hebrew text refers to “hanging on a gallows.”²⁵ This is the case, because the Greek verbs probably refer to death by crucifixion or a similar form of suspension. The Greek text cannot determine a precise meaning for the Hebrew תלה.²⁶

²² J. M. Sasson, *Treatment of Criminals at Mari: A Survey*, JESHO 20 (1977) 90-113, esp. 94, with ref. to ARM(T) XIII: 108 [G. Dossin et al., *Archives royales de Mari. Textes divers*, Paris 1964].

²³ Various forms of תלה על העץ (suspend on the wood) in Esth 2:23 [Bigthan and Teresh], 5:14 [the planned execution of Mordecai], 6:4 [Mordecai], 7:9-10 [Haman], 8:7 [Haman], 9:13-14, 25 [Haman's sons, a post-mortem example].

²⁴ L. W. Paton (*A Critical and Exegetical Commentary on the Book of Esther*, ICC, New York 1908, 191, 240) thinks that the height of the “gallows” (50 cubits, over 83 feet) excludes the possibility of impalement or crucifixion. J. D. Levenson, *Esther. A Commentary*, OTL, Louisville 1997, 65 opts for impalement in 2:23. With regard to 5:14 (and Paton's argument [ibid., 191, 240]), Levenson notes that the height is an extreme exaggeration and “that the action in question was to be performed on Haman's sons *after* they had been killed (9:6-10, 13) strongly argues for impalement on stakes rather than hanging on gallows.” F. W. Bush (Ruth, Esther, WBC 9, Dallas 1996, 373 [crucifixion a possibility because of the LXX trans. of 2:23 with ἐκρέμασεν; hanging is excluded because the ancient references to it are to post-mortem exposure], 414, 431) regards it as uncertain whether the punishment is impalement or crucifixion. In the A-text of Esth 6:11 (called L in the Hanhart ed.), Haman had wanted to “crucify” Mordecai (ἐκρέμασεν ἀνασκολοπίσαι αὐτόν).

²⁵ Contra HALOT, s.v. תלה. The compilers of the lexicon did not reach consistency, because s.v. תלה they translate with “gibbet” and not “gallows” for the passages in Esther.

²⁶ In the Roman empire hanging by the neck was not used as a form of execution. One would have to show its use in Persia. The LXX translators would have probably been clearer if their intention was hanging by a noose. Plutarch Brut. 31.5 specifically mentions the noose to refer to a woman who committed suicide (κρεμαμένη μὲν ἐξ ἀγχόνης). Cp. the same construction in Philo Post. 27, Her. 269, Praem. 151. Plutarch Ag. Cleom. 20.1 writes that Agis IV (ca 241) went “to the noose” (ἐπὶ τὴν στραγγάλην πορευόμενος, an execution by his fellow Greeks). Agis complains that he is being executed in a lawless and unjust manner (οὐτως παρανόμως καὶ ἀδίκως ἀπολλύμενος). His (ibid., 20.4, 6) grandmother was also hung (ἐκ τοῦ βρόχου κρεμαμένην) as was his mother. T. D. Seymour, *On Hanging among*

In Gen 40:19,²⁷ Deut 21:22-23, Josh 8:29, and 10:26 the same construction, “suspend on a tree/gibbet,”²⁸ is used. These texts, with the possible exception of Gen 40:19 and Josh 8:29, describe post-mortem suspensions.²⁹ Perhaps the compiler of the Genesis tradition was aware that impalement as a form of execution was practiced in Egypt. The text in Gen 40:19 has no additional semantic clues that indicate impalement. “Suspend” alone is used in Gen 41:13 (תלה, the baker), in 2 Sam 21:12 (תלה) to describe the fate of the bodies of Saul and Jonathan (a post-mortem suspension), and in 2 Sam 4:12 (ויתלה) where David suspends the dismembered bodies of Rechab and Baanah. 1 Sam 31:10 clarifies the type of suspension in 2 Sam 21:12 – the Philistines fastened Saul’s body to the wall of Beth-Shan³⁰ after they had cut off his head (1 Sam 31:9). Consequently the use in 2 Sam 21:12 refers to a kind of suspension that is not impalement. The ambiguity of תלה has implications for the interpretation of several texts from Qumran.

2.1 Qumran Texts (4Q Nahum Pesher and the Temple Scroll)

It is probable that the Dead Sea Scrolls contain several references to crucifixion, although it is difficult to be precise about the mode of execution in the case of the Temple Scroll.

the Greeks, TAPA 15 (1884) Appendix, xvi-xviii, esp. xvii considers the possibility of hanging or strangulation with regard to Agis. 2 Sam 17:23 and Tob 3:10 use forms of ἀπαγγασθαι for hanging by a noose. Josephus uses this verb to describe Herod’s strangulation of Hyrcanus II (A.J. 15.173, cp. B.J. 1.433). Herod probably used the Roman execution by *laqueus* (with the victim on the ground). Cf. intro. § 1 and chapt. 1 § 2.18.

²⁷ An alternative rendering of Gen 40:19 is “Within three days Pharaoh will summon you and suspend you on a stake” (thus with a suggestion of BHS omitting מעליך [from you]). Cp. Gen 40:13, 20. For the trans., see V. P. Hamilton (The Book of Genesis. Chapters 18-50, NIC, Grand Rapids 1995, 482) who agrees with C. Westermann (Genesis 37-50. A Commentary, Minneapolis 1986, 77-8) that “it is quite impossible” that “lift up your head” means beheading. Hamilton seems to agree with E. A. Speiser (Genesis, AB 1, Garden City 1964, 307) that “a beheaded man is not for hanging.” Speiser translates תלה with “impaled.” G. von Rad (Genesis, OTL, Philadelphia 1972, 372) argues that “It is not quite certain whether one is to understand this to mean decapitation and subsequent hanging (as, e.g., Deut. 21.22).” N. M. Sarna (Genesis. JPS Torah Commentary, Philadelphia 1989, 279-80) considers two possible forms of execution (beheading, then impalement, or impalement). He prefers to delete מעליך (the same phrase “lifted up the head” applies to both officials in 40:2) and renders the expression (ישא את ראשך) “call to account” or “bring to justice.” In addition 1 Sam 17:46 uses a different verb for beheading. Chapman, *Ancient Jewish and Christian Perceptions*, 102 argues cogently for reading מעליך in 40:19a.

²⁸ תלה על-עץ.

²⁹ The fact that Josh 10:26 is a case of post-mortem suspension indicates the same practice in 8:29. The king was dead by evening when Joshua removed him. Cf. M. H. Woudstra (The Book of Joshua, NIC, Grand Rapids 1981, 143) for this argument (a suspension, not an impalement).

³⁰ ואחזקיהו תקפו בחומת בית שן.

2.1.1 4Q Nahum Pesher

The Pesher on Nahum makes a reference to penal suspension:

- 1 [...] dwelling for the wicked ones of the nations. Where the lion went to bring the cub of the lion ... (Nah 2:12)
- 2 [...] Deme]trios king of Javan, who sought to enter Jerusalem with the counsel of the Seekers-of-Smooth-Things³¹
- 3 [...] by the hand of the kings of Javan from Antikos until the rise of the rulers of the Kit-tim; but after(wards) [...] will be trampled
- 4 [...] Lion tears enough for his cubs and strangles prey for his lionesses (Nah 2:13a)
- 5 [...] on account of the Angry Young Lion, who would strike with his great ones and men of his counsel
- 6 [...]and fill] cave and his lair [with] prey. (Nah 2:13b) Its interpretation concerns the Angry Young Lion
- 7 [...]mw]t in the Seekers-of-Smooth-Things; who will suspend living men
- 8 [...] in Israel before, for concerning one suspended alive upon the tree [it re]ads, Behold I am against you,
- 9 say[s the LORD of hosts, and I shall burn your abundance with smoke] and a sword will eat your young lions, and I shall cut off from the earth (its) prey. (Nah 2:14)³²

frag. 4

frag. 3

[מְדוֹר לְרֹשְׁעֵי גוֹיִם vac אֲשֶׁר הָלַךְ אָרִי לְבִיאָ שָׁם גּוֹר אֲרִין]	] 1
דְּמִי־טְרִיס מֶלֶךְ יוֹן אֲשֶׁר בָּקֵשׁ לְבוֹא יְרוּשָׁלַיִם בַּעֲצַת דּוֹרְשֵׁי הַחֲלָקוֹת	] 2
[בֵּיד מַלְכֵי יוֹן מֵאַנְתִּיכּוֹס עַד עַמּוּד מוֹשְׁלֵי כְּתִיִּים וְאַחֵר תְּרַמֵּס	] 3
[אֲרִי טוֹרֵף בְּדֵי גּוֹרֵיו [וְ]מִחְנֶק לְלִבְיֹתָיו טָרֵף	] 4
[עַל כַּפִּיר הַחֲרוֹן אֲשֶׁר יִכָּה בְּנִדּוּלָיו וְאַנְשֵׁי עֲצָתוֹ	] 5
[חֹרֶה וּמַעֲוֹנָתוֹ טָרֵפָה vac פֶּשֶׁרוֹ עַל כַּפִּיר הַחֲרוֹן	] 6
[מּוֹת בְּדוֹרְשֵׁי הַחֲלָקוֹת אֲשֶׁר יִתְּלֶה אֲנָשִׁים חַיִּים	] 7
[בִּישְׂרָאֵל מִלְּפָנִים כִּי לְתִלּוֹי חַי עַל הָעֵץ ³³ [יִקְרָא הֵנִי אֶלְיָכָה	] 8

³¹ The Dead Sea Scrolls Study Edition, 2 vols., ed. and trans. F. García Martínez and E. J. C. Tigchelaar, Leiden 1997-8, 337 translate this expression as “those looking for easy interpretations.”

³² 4QpNah 3-4 i 5-9. Trans. of Chapman, *Ancient Jewish and Christian Perceptions*, 59 slightly modified. Text of DJD V, 38 and *The Dead Sea Scrolls Reader*. Second Edition, Revised and Expanded, vol. 1-2, ed. D. W. Parry and E. Tov with G. I. Clements, Leiden/Boston 2014, 1.438 (S. Berrin; I have consulted his trans. on 1.439).

³³ García Martínez and Tigchelaar, *The Dead Sea Scrolls*, 1.337 translate with “it is horrible.” DJD V, 39 translates with “it [re]ads” (J. M. Allegro). Parry and Tov (S. Berrin), *The Dead Sea Scrolls*, 1.439 “for one hanged alive o[n the tree is to be re]ad.” Various modern scholars adopt each translation. The confusion lies in the reconstruction of יִקְרָא. Despite the fact that García Martínez and Tigchelaar print יִקְרָא in their edition, they translate יִנְרָא. This latter reconstruction is the text proposed by F. García Martínez, 4QpNah y la Crucifixión. Nueva hipótesis de reconstrucción de 4Q 169 3-4 i, 4-8, *EstBib* 38 (1978-9) 221-35, esp. 228 (text) and 232 where he translates “(es terri)ble para el colgado vivo en el árbol.” From his reexamination of the photographs, S. L. Berrin, *The Pesher Nahum Scroll from Qumran. An Exegetical Study of 4Q169*, STDJ 53, Leiden 2004, 34 can only read יִקְרָא, as

9 נאם יהוה צבאות והבערתי בעשן רובכ־ה וכפיריכה תאכל חרב והכרתי מארץ טר־פה

The dominant interpretation of the text is that the young lion is Alexander Jannaeus (who crucified 800 rebellious Jews) and Demetrios is Demetrius III Eukairos.³⁴ The Jews revolting against Alexander had appealed to Demetrius, who ruled part of Syria, for aid around 88 B.C.E. Schürer et al. note that the text interprets “strangle” (חנק) in the text of Nahum by assimilating it to the penalty of crucifixion, just as Tg. Ruth 1:17 assimilates “the fourth Mishnaic death penalty, strangulation (henek), with crucifixion.”³⁵ Those who seek smooth things are likely the Pharisees. An alternative view is that Demetrius I Soter (ca 162-150 B.C.E.) is the reference.³⁶ In that case Antiochus IV or Alcimus the priest would be responsible for the executions. Chapman notes that Josephus does not mention crucifixions by Alcimus, nor does he mention the Pharisees as the subject of the executions under Antiochus IV.³⁷

For the purposes of this study, the meaning of יהלה in the text is the most crucial question. Shani L. Berrin argues that the word alone can refer to various forms of death by suspension “including impalement, strangulation, and crucifixion.”³⁸ He, however, does not doubt that it refers to crucifixion in the peshet, given the historical identification with Alexander Jannaeus. He argues for a “semantic overlap” between חנק (strangle) and תלה (suspend), because of the Tg. Ruth 1:17.³⁹ A text from Genesis Rabbah (§ 3.9), discussed below, does, however, prove that תלה could be used for hanging from a noose in the case of an individual committing suicide.⁴⁰ Rather than describe this as “semantic overlap,” it seems better simply to assert that תלה can mean “hang” (with a noose). This use appears to be fairly rare. The author of the text per-

did the original editor, Allegro, in DJD V, 38. The scroll is torn before the רא, and the letters are lost.

³⁴ Chapt. 3 § 2.4. On the identification of Alexander with the “villain” of the Nahum Peshet, cf. Schürer, History 1.224 and Chapman, Ancient Jewish and Christian Perceptions, 61.

³⁵ Schürer, History 1.224-225. For Demetrius, cf. Josephus A.J. 13:375-6 and B.J. 1:90-2. m. San. 7:1 lists the penalties as stoning, burning, slaying [better, “beheading”], and strangulation. They also refer to Sifre Deut 21:22 § 221. m. San. 7:3 depicts strangulation as a mode of execution carried out on the ground (and not suspension from a noose).

³⁶ The dates are from Schürer, History, 1.129.

³⁷ Chapman, Ancient Jewish and Christian Perceptions, 61. Cf. chapt. 3 § 2.4.

³⁸ Berrin, The Peshet Nahum, 172-3.

³⁹ Berrin, The Peshet Nahum, 167. On Tg. Ruth 1:17, cf. § 3.1 below. D. J. Halperin, Crucifixion, the Nahum Peshet, and the Penalty of Strangulation, JJS 32 (1981) 32-46, esp. 34 draws the opposite conclusion and argues that the author of the peshet understood strangulation to be the means of death during crucifixion (cf. line 4 above). For Halperin, crucifixion was “a form of strangulation, *henek*, and was at some point drastically modified into the quick and relatively humane form of strangulation prescribed by the Mishnah” (ibid., 40).

⁴⁰ Cf. Gen. Rab. 65:22. J. M. Baumgarten, Does TLH in the Temple Scroll Refer to Crucifixion?, JBL 91 (1972) 472-81, esp. 475 uses this text. He also refers to b. Pes. 112a.

haps associated the lion's strangling of its prey (חנק) with crucifixion, because of the perception that "crucifixion was a prolonged and agonizing form of strangulation."⁴¹ This is possible but unnecessary for the argument that the author envisions the penalty of crucifixion in the Peshet.

Distinguishing the senses "impale" from "crucify" is more difficult. The word alone can probably have both meanings. Only the account in Josephus enables the scholar to claim with confidence that crucifixion is the meaning in the Peshet Nahum. Josephus uses the verb ἀνασταυρῶσαι (to crucify) to describe Alexander's execution of the eight hundred. The victims survived long enough to watch Alexander's execution of their wives and children before their eyes, and this indicates that Josephus did not think their death was by impalement (chapt. 3 § 2.4).

Florentino García Martínez's reconstruction of the text provides the foundation for an easier translation:

for it is [hor]rible for the one suspended alive on the tree

כִּי לַחַיִּי חַי עַל הָעֵץ [נִרְאָה]

The reconstruction using נִרְאָה (it reads) is undoubtedly popular, because it is immediately followed by a Scripture citation. נִרְאָה (fearful, horrible), however, expresses a clearly negative view of crucifixion. The pesher may disprove of the young lion's use of crucifixion.⁴³ The citation from Nahum, even assuming that נִרְאָה is the correct reconstruction, probably indicates a negative view of the one who is crucified.⁴⁴

2.1.2 *The Temple Scroll*

The Temple Scroll, like the Peshet Nahum, makes reference to a form of penal suspension used for execution. The precise mode of death is controversial. It is clear that Deut 21:22-23 underlies the passage.

⁴¹ Halperin, *Crucifixion*, 33, 40.

⁴² García Martínez and Tigchelaar, *The Dead Sea Scrolls*, 1.337 and García Martínez, *4QpNah y la Crucifixión*, 228 (text), 232: "(es terri)ble para el colgado vivo en el árbol."

⁴³ Chapman, *Ancient Jewish and Christian Perceptions*, 63-6 provides a close analysis of this question. He gives a fair summary and critique of Y. Yadin's views that the text approved Jannaeus's use of crucifixion (Peshet Nahum (4Q pNahum) Reconsidered, *IEJ* 21 (1971) 1-12).

⁴⁴ Cp. Berrin, *The Peshet Nahum*, 186-7, who does not consider נִרְאָה. He (*ibid.*, 184-5) makes an important point about כִּי (for) linking pesher with lemma (Scriptural citation) in 1QpHab. Berrin considers it possible that the text's author "expressed approval of the hanging execution of the Pharisees" (190). It is also possible, however, that the author disapproved of Jannaeus's "having left the carcasses hanging as prey for birds, which is an abomination in Israel." The text "views the executions as a cause for triumphalism over the arch-enemies the Pharisees, rather than condemnation of Jannaeus in some way that is not directly related to the Community" (*ibid.*, 189).

6 If

7 a man passes on information against his people⁴⁵ or betrays his people to a foreign nation, or does evil against his people,

8 you shall suspend him on the tree and he will die. On the evidence of two witnesses or on the evidence of three witnesses

9 he shall be put to death and they shall suspend him [on] the tree. If it happens that a man has committed a capital offence and he escapes

10 amongst the nations and curses his people [and] the children of Israel, him also you shall suspend on the tree

11 and he will die. And their corpse shall not spend the night on the tree; instead you shall bury them that day because

12 those suspended on a tree are cursed by God and people; thus you shall not defile the land which I

13 give you for an inheritance.⁴⁶

6 ... כִּי

7 יִהְיֶה אִישׁ רָכִיל בְּעַמִּי וּמְשָׁלִים אֶת עַמִּי לְגוֹי נָכָר וְעוֹשֶׂה רָעָה בְּעַמִּי

8 וּתְלִיתָמָה אוֹתוֹ עַל הָעֵץ וְיָמָת עַל פִּי שְׁנָיִם עֵדִים וְעַל פִּי שְׁלוֹשָׁה עֵדִים

9 יוֹמָת וְהָמָּה יִתְּלוּ אוֹתוֹ הָעֵץ vacat כִּי יִהְיֶה בָאִישׁ חֵטֶא⁴⁷ מִשְׁפָּט מוֹת וַיִּבְרַח אֶל

10 תוֹךְ הַנּוֹאִיִּם וַיִּקְלַל אֶת עַמִּי⁴⁸ אֶת בְּנֵי יִשְׂרָאֵל וּתְלִיתָמָה גַּם אוֹתוֹ עַל הָעֵץ

11 וְיָמָת וְלֹא תֵּלִין נִבְלָתָמָה עַל הָעֵץ כִּי קִבּוּר תְּקוּבְרָמָה⁴⁹ בְּיוֹם הַהוּא כִּי

12 מִקּוּלָּלִי אֱלֹהִים וְאֲנָשִׁים תֵּלִין עַל הָעֵץ וְלֹא תִטְמָא אֶת הָאֲדָמָה אֲשֶׁר אֲנוֹכִי

13 נֹתֵן לָכָה נַחֲלָה

מִקּוּלָּלִי in line 12 should be pointed *pu'al* and not *pi'el* or *polel* (which would result in “those who curse”), given the parallel in 4QpPs^a (= 4Q171) frags. 1-10 col. iii 9 where the same word (וּמִקּוּלָּלִי) is *pu'al*, because it is a quote of Ps 37:22.⁵⁰ The text twice reverses the order of events in Deut 21:22 where the execution takes place before the suspension. The question that is of central

⁴⁵ In 1QS VII, 15-6 רָכִיל is used of one who “defames” another individual in the community (trans. of García Martínez and Tigchelaar, *The Dead Sea Scrolls*, 1.87). The same sense (“slandering”) occurs in 1QH^a XIII, 25. Cp. Chapman, *Ancient Jewish and Christian Perceptions*, 126. M. Wise in M. Wise, M. Abegg, and E. Cook, *The Dead Sea Scrolls. A New Translation*, San Francisco 2005, 630 translates אִישׁ רָכִיל as “traitor” and the next phrase as “gives them up to a foreign nation.” Y. Yadin (*Pesher Nahum*, 6) writes that “Our text obviously takes רָכִיל אִישׁ רָכִיל for ‘informer’, spy, as was understood by the Targums, Pal. Tal. (Peah 16a דִּילְשׁוֹר, ‘delator’) and all the Jewish commentaries [with ref. to Lev 19:16].”

⁴⁶ 11Q19 LXIV, 6-13. Trans. slightly modified of García Martínez and Tigchelaar, *The Dead Sea Scrolls*, 2.1287. Text from Chapman, *Ancient Jewish and Christian Perceptions*, 125-6 based primarily on Y. Yadin, *The Temple Scroll*, 3 vols. and suppl., Jerusalem 1983, 2.202-4.

⁴⁷ The א was added later.

⁴⁸ The י was added later.

⁴⁹ The ה was erased.

⁵⁰ DJD V, 44 as revised by Parry and Tov (M.P. Horgan), *The Dead Sea Scrolls Reader*, 1.464. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 127.

importance for this investigation is what kind of suspension the text envisions. The words *על העץ* (on the tree) can imply hanging (with a noose), crucifixion, or impalement. Berrin writes, “The beam of wood upon which one would be attached for crucifixion, or the stake upon which one would be impaled, as well as the tree from which an individual would be suspended by a rope, would correctly be termed *עץ*” (tree/beam/gibbet).⁵¹ The only linguistic difference between the expression in the Temple Scroll and the Pesher Nahum is that the individual in the latter text is “suspended alive” *תלוי חי על העץ* (suspended alive on the tree/beam). Baumgarten admitted that the pesher was a reference to crucifixion, but thought the linguistic difference was sufficient to establish that the expression in the Temple Scroll was not a reference to crucifixion.⁵² He mentions the similar use of “alive” in *Sifre Deut.* quoted below.⁵³ Yadin doubts whether the “individuals of the sect distinguished between being hung alive by means of a rope or by crucifixion.”⁵⁴ Joseph Fitzmyer, on the other hand, and a number of scholars think the reference is to crucifixion, because of the clear example of the penalty in 4QpNah.⁵⁵ He poses this query, “Why should *תלה* in this scroll be interpreted by the meaning that it might possibly have in another Jewish tradition, viz., rabbinic – and of a later date?”⁵⁶ He further notes that “it is far from certain” the text in Tg. Ruth 1:17 refers to hanging and not crucifixion.⁵⁷ If one stays within the bounds of the Qumran literature, then there seems little justification for not interpreting the Temple Scroll to mean crucifixion and not hanging by means of a noose or some other form of suspension. This may well imply that the author of the scroll advocated crucifixion.

2.2 *תלה (tlh) in other Qumran Texts*

The use of the verb *תלה* in other Qumran fragments offers some help. A fragmentary text, sometimes called Pseudo Ezekiel or Pseudo Jeremiah, has this cryptic reference:

1 to them] because they did not listen

⁵¹ Berrin, *Pesher Nahum*, 167.

⁵² Baumgarten, *Does TLH*, 478.

⁵³ Cf. § 2.6.

⁵⁴ Y. Yadin, *The Temple Scroll*, 3 vols. and suppl., Jerusalem 1983, 1. 289 n. 11.

⁵⁵ Chapman, *Ancient Jewish and Christian Perceptions*, 129 n. 126 lists many scholars who believe it is a question of crucifixion. Many more could be added.

⁵⁶ J. Fitzmyer, *Crucifixion in Ancient Palestine, Qumran Literature, and the New Testament*, CBQ 40 (1978) 493-513, esp. 505. He thinks the pesher also alludes to Deut 21:22-3 in 4QpNah 3-4 i 7, restoring the lacuna as:

[who has found a crime punishable by] death in the Seekers-after-Smooth-Things, whom he hangs as live men

[אשר מוצא חטא משפט] מות בדורשי החלקות אשר יתלה אנשים חיים

⁵⁷ § 3.1 below.

3]hung upon the tree and the birds
4 [of heaven] truth. Do not leave over⁵⁸

אליהם אשר לא הקשיבו	2
תלוי על העץ ועוף	3
וְאִמַּת אֵל תּוֹתִירוּ	4
[השמים]	

Commenting on תלוי, Devora Dimant notes that “The lower tip of the lower left edge of *taw* is noticeable.” She also refers to the similar phrase (suspended on a tree) in Josh 8:29, Esth 8:7 and 9:25.⁵⁹ It is possible that a reference to Deut 21:22-23 was “included in the lost text,” but that is wholly uncertain. Perhaps the author was familiar with the Temple Scroll and the Nahum Pesher. If this is the case, Dimant argues, there may be a reference to some historical event.⁶⁰ Chapman notes that there is a space at the end of line 3, a space that is filled in lines 2 and 6. He also points out that the birds mentioned in Gen 40:19 who devoured the baker’s body render it unnecessary to add השמים.⁶¹ The phrase “suspended on a tree” may indicate crucifixion, although it seems impossible to determine whether the reference is to an antemortem or post-mortem suspension. It also seems difficult to determine whether impalement might be the intention of the text, but the Nahum Pesher is almost certainly not impalement if the actions of Alexander Jannaeus are its reference.

An even shorter example of the verb occurs in a text that has been identified as 4QApocryphon of Levi^b (?) ar:

1. and suspended/crucified because⁶²

1 וְתִלָּה אֲרֹן

Later in the text several lines appear that may contain a reference to crucifixion. Puech’s transcription and translation is:

4 Seek and ask and know what the agitator asks, and do not repel/weaken by means of exhaustion/a *cudgel* and suspension/crucifixion [do not judge as (capital)?] [punishmen]t
5 and with a nail do not approach him. And you will establish for your father a name of joy and for your brothers a tried foundation.⁶³

4 בקר ובעי ודע מא יונא בעה ואל תמחולחי ביד שחפא וְתִלָּה כְּנִדִּי אֵל תִּדְרִין
5 וצצא אל תִּקְרֹב בָּה וְתִקִּים לְאִבּוֹכָה שֶׁם חֲדוּא וְלִכּוֹל אֲחִיכָה יסוד מִבְּחִין

⁵⁸ 4Q385a frag. 15 col. i 2-4. Text and trans. from DJD XXX (D. Dimant). Parry and Tov (Dimant), *The Dead Sea Scrolls*, 2.796 identify it as 4QapocJer C^a.

⁵⁹ DJD XXX, 150-1.

⁶⁰ DJD XXX, 151.

⁶¹ Chapman, *Ancient Jewish and Christian*, 265-6.

⁶² 4Q541 frag. 2 col. ii 1. Text from DJD XXXI (É. Puech) and Parry and Tov (E. Cook), *Dead Sea Scrolls Reader*, 1.912-13 (text and trans.).

⁶³ 4Q541 frag. 24 ii 4-5. Text and trans. from DJD XXXI (Puech) and text from Parry and Tov (E. Cook), *Dead Sea Scrolls Reader*, 1.918.

Edward E. Cook makes a very different translation:

4 Examine, them and seek and know what will befall you. But do not damage them by erasure or [we]ar like [

5 Do not touch the priestly headplate. Thus you will maintain a joyful name for your father and a sound foundation for your brothers⁶⁴

The word translated “nail” by Puech (צנא) has been variously interpreted as a bird or the high priest’s breastplate.⁶⁵ Clearly the text is too ambiguous to make any conclusions about crucifixion. Another fragment contains a use of תלה that may refer to crucifixion or some kind of suspension.

1 ..] . Je[w

2 has crossed/transgressed

3 to one who has been suspended⁶⁶

[יהונדי]

1

] עבר]

2

] לתלה

3

Puech argues that תלה is a past participle as in 4Q541 frag. 2 ii 1 above and is an allusion to a violent or lying man.⁶⁷ Although it is clearly not a “crucifixion text” a usage of the verb in a description of a horse illustrates the diversity of meanings associated with the word:

3 and with force he goes out to the sword. He laughs at fear and neither

4 does he tremble nor turn away from the sword. On him are hanging quiver,

5 «sharp-edged lance» and whetted sword ...⁶⁸

3 ובחיל ינפק לאנפי חרב יהאך על דחלא ולא

4 יזוע ולא יתוב מן אנפי חרב עלווי יתלה שלט

5 (ו)שנן <ונוך וחרף סיף ...

⁶⁴ Trans. from Parry and Tov (E. Cook), *The Dead Sea Scrolls*, 1.919.

⁶⁵ Cf. Chapman, *Ancient Jewish and Christian*, 266. For the latter meaning (breastplate) cf. Sokoloff, *Dictionary s.v. צנ*. Jastrow, *Dictionary*, s.v. צנא lists “night-hawk” as a possible meaning. Puech’s translation is based on a Syriac cognate (ܨܢܐ). שחף in Hebrew refers to a bird, perhaps a “sea mew.” The same word in verbal form can mean “waste away.” Cf. also the entry in Sokoloff’s dictionary (an unclean bird). For a collection of translations, see M. Hengel with D. P. Bailey, *The Effective History of Isaiah 53 in the Pre-Christian Period*, in: *The Suffering Servant. Isaiah 53 in Jewish and Christian Sources*, ed. B. Janikowski and P. Stuhlmacher, Grand Rapids 2004, 75-146, esp. 111-4.

⁶⁶ 4Q584 frag. x 1-3. Text and trans. from DJD XXXVII (slightly modified).

⁶⁷ DJD XXXVII, 474 with ref. to 4Q550 frag. 1 7 and 4 1 (punishment of a violent and lying man), the punishment mentioned in 4Q550 frag. 6-6c 7 and 7-7a 2). Hanging is parallel to Esth 2:23, 5:14, 6:4, 7:9-10, 8:7, according to Puech.

⁶⁸ 11Q10 xxxiii 3-5 (11Q10gJob), from Job 39:21-23. Text and trans. from DJD XXII. ושנן נוך should probably be שן נוך.

In the Targum תלה is used to describe the suspension of the quiver on the horse. A fragment of Tobit (3:10) contains a possible use of תלה which, if the restoration is correct, clearly describes suicide by hanging and not crucifixion:

1. Let them [not] reproach [my father ...]
- 2 You had o[ne living daught]er [...]
- 3 concerning me. It is not right to [hang myself ... no longer]⁶⁹

1 יחרפו אִתּוֹ אָבִי ...
 2 חיה לִכְהָ בֵּת יִחִידָה ...
 3 עָלַי אֵין כְּשֶׁר לִהְיוֹתָלוֹת ... לוא עִיד

The Greek verbs for “hanging” [by a noose] in Tob 3:10 are various forms of ἀπαγγαθθαί.⁷⁰

2.3 m. Sanhedrin 6:4

A text in the Mishna depicts the practice of post-mortem suspension:

All that were stoned were [then] suspended; this is the view of R. Eliezer; but the Sages say, No one is suspended, excepting the blasphemer and the idolater. They suspended a man [with his face] towards the people and a woman with her face to the beam; this is the opinion of R. Eliezer; but the Sages say, The man is suspended, but the woman is not suspended. R. Eliezer said [to them], But did not Simon ben Shetach suspend women in Ashkelon? [The Sages] replied to him, Eighty women did he suspend – yet two [persons] should not be tried [on a death charge] in one day. How did they suspend him? They sank a post into the ground and a piece of wood protruded from it; and one placed together his hands one upon the other and suspended him. R. Jose says, The post is leaned against a wall and one suspends him [thereon] in the way that butchers do. And they undid him at once, for if it remained [suspended] overnight, a negative command would be transgressed thereby, as it is said, his body shall not remain all night upon the tree, but thou shalt surely bury him the same day; for he that is suspended is a reproach unto God, etc., meaning, Why was this man suspended? Because he blasphemed the Name, and the Name of Heaven was found profaned.⁷¹

כל־הנסקלין נתלין: דברי רבי אליעזר; וחכמים אומרים אינו נתלה אלא המנדרף והעובד ע"ז. האיש תולין אותו פניה כלפי העם והאשה פניה כלפי העץ; דברי רבי אליעזר; וחכמים אומרים האיש נתלה ואין האשה נתלית. אמר להן רבי אליעזר והלא שמעון בן שטח תלה נשים באשקלון? אמרו לו שמונים נשים תלה ואין דנין שנים ביום אחד. כיצד תולין אותו? משקעין את־הקורה בארץ והעץ יוצא ממנה; ומקיף שתי ידיו זו על גבי זו ותולה אותו. רבי יוסי אומר הקורה מוטת על הכותל ותולה אותו כדרך שהטבחין עושין. ומתירין אתו מיד ואם לן עובר עליו בלא תעשה שנאמר לא־תלין נבלתו על העץ כִּי־קבור תקברנו כי קללת אלהים תלוי וגו' כלומר מפני מה זה תלוי? מפני שבירך את־השם ונמצא שם שמים מתחלל.

⁶⁹ 4Q200 frag. 1 ii 1-3. Text and trans. from DJD XIX.

⁷⁰ This is true in the versions found in B, A and S.

⁷¹ m. San. 6:4, trans. of P. Blackman, Mishnayoth, vols. 1-7, London 1951-56, 4.263-4, slightly modified.

The binding of the hands of the dead bodies indicates that this is not a question of hanging by the noose (because of the protruding piece of wood), nor is it an ante-mortem suspension or impalement. But the text does give a context for the famous story of Simeon ben Shetach and the witches of Ashkelon. The context perhaps implies that the women were already stoned before they were suspended, and it clearly implies that they were not suspended by nooses. The bodies were suspended with their hands tied together. It is not at all apparent that Simeon “crucified” the women, because the Mishnaic context does not support crucifixion as a form of the death penalty. Halperin argues that the “projecting piece of wood may correspond to the crossbar” (i.e. *patibulum*).⁷²

2.4 t. *Sanhedrin* 9:8

A text in the tosefta also reflects the usage of תלה in the Mishnaic text above.

The sword with which a man is beheaded, the scarf with which he is strangled, the stone with which he is stoned, and the beam on which he is suspended, were immersed for purification and not buried with him.⁷³

סיף שנהרג בו סודר שנחנק בו אבן שנסקל בה ועץ שנתלה עליו כולן טעונין טבילה ולא
היו קוברין אותן עמו

Assuming that the suspension of the text in the tosefta is the same as that specified in m. San. 6:4, in rabbinic practice the individual's hands would be bound, and then the corpse would be suspended on a pole.⁷⁴

2.5 b. *Sanhedrin* 46b

The Talmud makes a reference to Roman crucifixion and contrasts it with Jewish practice:

Our Rabbis taught: Had it been written “If he has sinned, then you shall suspend him,” I should have said that he is suspended and then put to death, as the State does. Therefore Scripture says: “And he is put to death, then you shall suspend him.”⁷⁵

תנו רבנן אילו נאמר חטא ותלית הייתי אומר תולין אותו ואחר כך ממיתין אותו כדרך
שהמלכות עושה תלמוד לומר והומת ותלית ממיתין אותו ואח"כ תולין אותו

The text is a baraita, i.e., an oral tradition not included in the Mishna. Since Roman practice of impalement was probably fairly rare (it is mentioned explicitly in only two texts), the reference is likely to be crucifixion. This can-

⁷² Halperin, *Crucifixion*, 44.

⁷³ t. San. 9:8, trans. slightly modified of H. Danby, *Tractate Sanhedrin. Mishnah and Tosefta*, London/New York 1919, 93.

⁷⁴ Cf. § 2.3 above.

⁷⁵ b. San. 46b, trans. modified of *The Babylonian Talmud. Nezikin*, vol. 3, ed. I. Epstein, London 1935, 305.

not be demonstrated, however, solely from the occurrence of the verb תלה in the baraita, but depends on a historical claim about Roman practice.

2.6 *Sifre Deuteronomy 21:22*

Very similar to the baraita in b. Sanhedrin is a text from *Sifre Deuteronomy*:

One might think that he is to be suspended alive as is the practice of the (Roman) government; therefore the verse states, “And he be put to death, and thou suspend him on a tree/gibbet.” *Him*, but not his garments; *him*, but not those who (falsely) testified against him; *him*, but not his rebuttal witnesses; *him*, but not two persons on the same day.⁷⁶

יכול יהו תולים אותו חי בדרך שהמלכות עושה תלמוד לומר והומת ותלית אותו על עץ.
אותרו ולא את כליו אותרו ולא את עדיו אותרו ולא את זוממיו אותרו ולא שנים ביום אחד.

4QpNah, according to Berrin, “apparently reflects the same conscious interpretation of Deut 21:22 as that which is found in 11QT, and which is rejected in the *Sifre*.”⁷⁷ Yigael Yadin believes that this passage (Deut 21:22) and two others (*Sifre Deut.* 21:22 and Tg. Ps-J. Deut 21:22) actually are arguments against another view that was currently held – a view reflected in 11QT and the Peshar Nahum.⁷⁸ The emphasis on suspending the criminal nude perhaps reflects Roman practice.⁷⁹

3 *slb*

It is apparent that there are no texts in the Hebrew Scriptures which are clear examples of crucifixion. In Hebrew and Aramaic, however, the verb צלב probably means “crucify.” “Impale” is a possibility, but I am aware of no texts in which the impalement is explicit. The rarity of corresponding texts in Latin describing Roman impalement is of some help in interpreting the rab-

⁷⁶ *Sifre Deut.* 21:22 § 221 (*Sifre on Deuteronomy*, ed. L. Finkelstein, New York 1969, 254), and cp. Chapman, *Ancient Jewish and Christian Perceptions*, 144. Trans. of R. Hammer, *Sifre. A Tannaitic Commentary on the Book of Deuteronomy*. Translated from the Hebrew with Introduction and Notes, New Haven/London 1986, 232. In b. San. 46a after being stoned, the victim is suspended without clothes (R. Eliezer’s argument using the same textual reasoning as the passage in *Sifre Deut.*). In m. San. 6:3 the male criminal is stoned naked, which probably implies that he is suspended naked. Cf. Halperin, *Crucifixion*, 45.

⁷⁷ Berrin, *The Peshar Nahum*, 172.

⁷⁸ Yadin, *Peshar Nahum*, 4.

⁷⁹ Cf. chapt. 2 § 3.5.3 and chapt. 6 § 1.2.

binic material when it refers to Roman penal suspension.⁸⁰ To my knowledge there are no explicit uses of the verb to describe hanging by a noose.⁸¹

3.1 *Targum Ruth*

In the Targum Ruth, there is a possible reference to crucifixion, although the meaning of the text is contested.

Naomi said [to Ruth], we have four sentences of death for the guilty: throwing of stones, and burning with fire, and death by the sword, and crucifixion on a pole.⁸²

אמרת נעמי אית לנא ארבע דיני מותא לחייביא רגימא אבנין ויקידת נורא וקטילת סייפא
וצליבת קיסא

MS De Rossi 31,⁸³ apparently uncomfortable with the mention of crucifixion, substituted “strangling of the scarf” for the expression (i.e. *והניקת סידרא* for *וצליבת קיסא*).⁸⁴ The Targum does not prove that strangulation was the equivalent of *וצליבת קיסא*, because the meturgeman’s tradition may be earlier than that in the Mishna (San. 7:1).⁸⁵ In addition, the Mishna gives an explicit description of the process of strangulation (the “ordinance of those to be strangled” *מצות הנחנקין*). The executioners place the individual in manure “up to his armpits” and wrap a rough scarf (enclosed in a softer one) around his neck. One witness pulls an end towards himself and another witness pulls an end towards himself until “his soul departs.”⁸⁶ Joseph M. Baumgarten argues that the Tg. Ruth is a mere variation on strangulation.⁸⁷ The tradition in the Targum, however, probably does not mean suspension by a noose since it could be earlier than the Mishna and consequently might have a completely different meaning (i.e., crucifixion). Berrin argues that the text is compatible with being hanged on a rope or on a cross or even with post-mortem suspension.⁸⁸ Suspension by a noose seems unlikely, since no uses of *צלב* are demonstrable

⁸⁰ Cf. intro. § 1.

⁸¹ Cf. the lexical entries of Sokoloff (A Dictionary, s.v. *צלב* “to impale, crucify”) and Jastrow (A Dictionary, s.v. *צלב*) along with Chapman’s extensive semantic analysis (Ancient Jewish and Christian Perceptions, 14-26 [he does not mention impalement as a possibility]).

⁸² Tg. Ruth 1:17. D. R. G. Beattie, The Targum of Ruth: A Preliminary Edition, in: Targums and Scripture. Studies in Aramaic Targums and Interpretation in Memory of Ernest G. Clarke, ed. P. V. M. Flesher, Leiden 2002, 231-90, esp. 247.

⁸³ Parma, Biblioteca Palatina, ms. 3231 (de Rossi 31), XIV C.E.

⁸⁴ Cp. Chapman, Ancient Jewish and Christian Perceptions, 21-2.

⁸⁵ On this point, cf. Chapman, Ancient Jewish and Christian Perceptions, 23-4 with ref. to J. Heinemann, The Targum of Ex XXII,4 and the Ancient Halakha, Tarbiz 38 (1969), 294-6, esp. 295-6 (Hebrew).

⁸⁶ m. San. 7:3.

⁸⁷ J. M. Baumgarten, Does TLH, 473-4.

⁸⁸ Berrin, Peshet Nahum, 167.

examples of such a form of hanging.⁸⁹ In any case the Targum alone does not establish “semantic overlap” between חנק (strangle, strangle oneself = hang) and תלה (suspend).⁹⁰

3.2 Deuteronomy 21:22-23 in the Targums

Targum Ps. Jonathan uses a phrase very similar to that in Tg. Ruth for suspension:

And if indeed there is in a man a sin bearing a judgment of death, and he is convicted [to] a casting of stones, and after this they suspend him on a tree/pole; the corpse of his body shall not spend the night on a tree/pole, but you shall surely bury him in that day, because it is a disgrace before the Lord to suspend a man, unless his sins caused it. And because in the image of the LORD he was made, you shall bury him with the setting of the sun, so that the creatures will not treat him improperly ...⁹¹

וארום אין יהי בנבר חובת דין קטול ויתחייב אטלות אבנין ובתר כדן יצלבון יתיה על קיסא לא תבית ניבלת נושמיה על קיסה ארום מקבר תקברוניה ביומה ההוא ארום קילותא קדם אלהא למצלוב נבר אלהן חובוי נרמו ליה ומן בגלל דבדיוקנא דיי אתעבד תקברוניה עם משמוע שמשא דלא יקילון ברייתא ביה ...

Targum Neofiti also uses language similar to Tg. Ruth 1:17:

And if there is arranged in the man a sin bearing a judgment of deaths, and he is executed, and you suspend him on a tree/pole, his corpse shall not spend the night on a tree/pole, but you shall surely bury him in that day, because cursed before the Lord is everyone who is suspended ...⁹²

וארום יהווי בנברא סדר חובת דין דקטולין ויתקטל ותצלבון יתיה על קיסה לא תבית נבלתיה על קיסה: ארום מקבר תקברון יתיה ביומה ההוא ארום ליש קדם ייי כל דצליב ...

It is intriguing that the Targum Neofiti, in its translation of Lev 19:26, includes an injunction not to eat over the blood of those who have been executed by the Sanhedrin:

⁸⁹ I believe this at least to be true in the case of Tannaitic and Amoraic texts. In Tg. 2 Sam 17:23 for example, the word which describes Ahitophel's suicide by hanging is איתחניק. For a number of examples of the verb used for suicide, cf. Sokoloff, A Dictionary, s.v. חנק.

⁹⁰ Halperin (Crucifixion, 39-40) commenting on this text and basing his argument on the rabbinic (and Christian) use of צלב, writes that “There is no evidence the verb is [צלב] is ever used for hanging by the neck. In Targ. Ruth 1:17, where a form of execution is obviously designated, the burden of proof rests heavily upon the scholar who would see in *selibat qesa* anything other than crucifixion.” Cf. also Chapman, Ancient Christian and Jewish Perceptions, 18.

⁹¹ Tg. Ps.-J. Deut 21:22-23. Trans. slightly modified of Chapman, Ancient Christian and Jewish Perceptions, 139.

⁹² Tg. Neof. Deut 21:22-23. Trans. slightly modified of Chapman, Ancient Christian and Jewish Perceptions, 138. A. Díez Macho, Neophyti I. Targum Palestinense MS de la Biblioteca Vaticana, 6 vols., Textos y Estudios 7- 11, Madrid-Barcelona 1968-79, 5.180 translates with “crucificáis sobre el madero” (crucify on a beam).

לא תוכלון על דם קטילי סנהדרין

Presumably this indicates that the meturgeman believed the Sanhedrin had the right to execute individuals in some circumstances.⁹³

The fragmentary Targum also uses language similar to Tg. Ruth:

On a tree: and you shall suspend him on the tree/pole.⁹⁴

על עץ: ותצלבון יתיה על קיסא

There is surely no question of suspension by means of a noose in these texts, although impalement remains a remote possibility. Assuming these texts are consistent with the Mishnaic traditions, the meturgemans would have been aware of the practice of tying the criminal's hands and suspending him (or her) on a post or tree. In m. San. 6:4 the individual to be stoned is then suspended, post-mortem. This corresponds to the order in Targum Ps. Jonathan above.

3.3 Numbers 25:4

David Chapman shows that in contrast to Targum Onkelos, Targums Neofiti, Pseudo-Jonathan and the Fragment tradition all use “suspension terminology” in their translations of Num 25:4.⁹⁵ The tradition of Neofiti is:

Everyone who is liable to the death penalty, they shall crucify him on a pole [for crucifixion].⁹⁶

כל מן דמתחייב קטלה יצלבון יתיה על צליבה

Ps. Jonathan uses similar language:

And you shall crucify them before the Memra of the Lord on a pole/tree opposite the sun at daybreak, but with the sinking sun you shall lower them and you shall bury them.⁹⁷

ותצלוּב יתהון קדם מימ[רא] דיי על קיסא קבל ששמא בקרי*צתא* ועם מטמוע שימשא תחית יתהון ותקברינון

The verb for lowering the corpses apparently indicates that they were suspended or crucified and not impaled. The fragmentary Targum (MS 440) has:

⁹³ This is a vexed issue. Cf. B. A. Berkowitz, *Execution and Invention. Death Penalty Discourse in Early Rabbinic and Christian Cultures*, Oxford 2006, 12-19 (rabbinic execution likely was not practiced, but it is unclear what “jurisdictional autonomy” the Romans permitted Tannaitic Jewish authorities).

⁹⁴ Frg. Tg. MS 440 Deut 21:22.

⁹⁵ Chapman, *Ancient Christian and Jewish Perceptions*, 112-4.

⁹⁶ J. M. Baumgarten, *Hanging and Treason in Qumran and Roman Law*, *Eretz Israel* 16 (1982) 7*-16*, esp. 15* thinks this text refers to a “gibbet used for hanging.”

⁹⁷ Chapman, *Ancient Christian and Jewish Perceptions*, 112 (his trans. modified) remarks that the asterisks indicate text added in the margins of the MS.

And they shall crucify everyone who is liable to the death penalty

ויהוון צלבין כל מן דמתחייב למתקטלא

At sunset in all three texts the bodies are to be buried. In Sifre Numbers, God tells Moses to “execute” (הוקע)⁹⁸ the leaders of the people, but the text continues:

[He said to him, appoint the leaders of the people] judges and have them crucify the sinners before the sun.⁹⁹

[אמר לו הושב ראשי העם] דיינים ויהיו צולבים את החטאים נגד השמש

The natural interpretation is that this is a pre-mortem crucifixion.

3.4 Joshua 8:29 (*Targum Jonathan*)

In the Targum to Joshua 8:29 the king of Ai is taken alive. Joshua suspended him.

And he [Joshua] crucified the king of Ai on a pole/cross until evening

וית מלכא דעי צלב על צליבא עד עידן רמשא

It is unclear whether this is a pre-mortem or post-mortem suspension. The same construction (and they suspended/crucified them on five poles) is used, however, in 10:26 where it is clearly a case of post-mortem suspension.¹⁰⁰ In 1 Sam 31:10 the Philistines “crucified” (or “attached to”) Saul’s body (וית נופיה צלבו בשורה) on the wall of Beth-Shan. The context in 1 Sam 31:10 is clearly post-mortem and “impale” is not the correct translation. The image is of body attached to the wall and that encourages one to translate the other texts in the Targum with “crucify.”¹⁰¹

3.5 Sifre Deuteronomy on Crucifixion

Another text, with reference to the people’s complaints in Deut 1:27, mentions that the people sat in their tents mourning as one over a dead body and then they took their sons,

And they said woe to you who have your sufferings, woe to you who have your afflictions. Tomorrow they will kill some of you and some of you they will imprison and some of you they will crucify on crosses [or pole for crucifixion].

ואומרים להם אי לכם דוויים אי לכם סנופים למחר יהו הורגים מכם יהו שובים מכם יהו

⁹⁸ On this word of undetermined meaning, cf. Chapman, *Ancient Christian and Jewish Perceptions*, 27-30.

⁹⁹ Sifre Numbers 131 (172 Horowitz).

¹⁰⁰ Chapman, *Ancient Jewish and Christian Perceptions*, 153.

¹⁰¹ Cp. similar uses of צלב in Tg. 2 Sam 4:12 (the bodies of Rechab and Baanah), 21:12 (the bodies of Saul and Jonathan).

צולבים מכם על הצליב¹⁰²

Crucifixion is probably the intention, given the date of Sifre in the imperial era.¹⁰³

In a comment on Deut 32:31, the text emphasizes Roman cruelty:

And as you give them power, they conduct themselves in the measure of cruelty: they execute some of us, they burn some of us, and they crucify some of us.¹⁰⁴

וכשאתה נותן להם את התוקף הם מתנהגים עמנו במדת אכזריות הורגים ממנו ושרפים ממנו וצולבים ממנו.

The Roman penalty was predominantly crucifixion, and impalement is very rare according to the source (Seneca) that gives explicit details. The list also includes *crematio*, one of the aggravated penalties in Roman law.

Referring to Deut 32:5, Sifre quotes Ezek 33:31 and illustrates it with a parable.

The sages taught in the name of Abba Hedores: Israel has corrupted itself by violating all the prohibitions in the Torah. Why is this stated? In order not to give the wicked an excuse to say that whenever we sin, we trouble him.¹⁰⁵ To what may this be likened? To one who is about to be crucified. His father weeps for him, and his mother prostrates herself before him (in her grief). The father cries, "Woe is me!" The mother cries, "Woe is me!" But the one really affected is only he who is about to be crucified. Thus Scripture says, "Woe unto their soul! For they have wrought evil unto themselves (Is 3:9).¹⁰⁶

משום אבה הדורס אמרו שחתו ישראל בכל לאוים שבתורה וכל כך למה שלא ליתן פתחון פה לרשעים לומר כל זמן שאנחנו חוטאים לפניו אנו מצטערים לפניו למה הדבר דומה לאחד שיצא ליצלב ואביו בוכה עליו ואמו מתחבטת לפניו זה אומר אי לי זה אומר אי לי אבל אין זה הווה אלא על אותו שיצא ליצלב וכן הוא אומר אי לנפשם כי גמלו להם רעה.

There is no overwhelming reason to translate the text as "impaled," and the absence of any explicit Hebrew or Aramaic description of impalement using the verb in question is important.

3.6 *The Bodies of the Crucified*

Semahot, possibly a third century text, forbids the theft of executed corpses:

¹⁰² Sifre Deut. 1:27 § 24 (34 Finkelstein). Cp. the identical tradition in Midrash Tannaim 1:27 (Midrasch Tannaim zum Deuteronomium, ed. D. Hoffmann, Berlin 1908-1909, 12).

¹⁰³ H. L. Strack and G. Stemberger, Introduction to the Talmud and Midrash, Minneapolis 1996, 273 date the final redaction to the late third century.

¹⁰⁴ Sifre Deut 32:31, § 323 (373 Finkelstein). I take "measure of cruelty" from Hammer, Sifre, 335. Cp. the parallel tradition in Midrash Tannaim 32:31 (199-200 Hoffmann).

¹⁰⁵ Hammer, Sifre, 495 notes that "The text uses the reflexive form 'we bring trouble upon ourselves before him.' This is in order to avoid using blasphemous language."

¹⁰⁶ Sifre Deut 32:5, § 308 (347 Finkelstein). Trans. of Hammer, Sifre, 313. Cp. the same tradition in Midrash Tannaim 32:5 (188 Hoffmann).

Those executed by the empire: they do not withhold any [funeral rites] from them. When do they begin to count [the death or days of mourning]? From the moment when they abandon hope of asking [for the body], but not of stealing it. Everyone who steals, this individual is as one who sheds blood and not only as one who sheds blood but who worships foreign idols, uncovers nakedness and profanes Sabbaths.¹⁰⁷

הרוגי מלכות, אין מונעין מהן לכל דבר. מאימתי מתחילין להן למנות? משעת שנתיאשו מלשאול, אבל לא מלגנוב. כל הגנוב, הרי זה שופך דמים, ולא כשופך דמים בלבד – אלא כעובד עבודה זרה, ומגלה עריות, ומחלל שבתות:

A text from a passage that occurs soon after this one in Semahot indicates that crucified bodies may be intended, although it could also apply to the bodies of any individuals executed by the Romans.¹⁰⁸

A woman whose husband has been crucified in the city in which she resides, or a man whose wife has been crucified in the same city, or a child whose father or mother has been crucified in the same city, should not remain in that city unless it is as large as Antioch. Even so, one should not continue to reside on the same side, but should move to the other side. How long is this forbidden? Until the flesh has wasted away, the features no longer being discernible from the skeleton.¹⁰⁹

מי שהיה בעלה צלוב עמה בעיר, אשתו צלובה עמו בעיר, אביו ואמו צלובין עמו – לא ישרה באותה העיר אלא אם כן היתה עיר גדולה כאנטוכיא. לא ישרה בצד זה, אבל ישרה בצד אחר. עד מתי הוא אסור? עד שיכלה הבשר, ואין הצורה ניכרת בעצמות

Suspension is obvious, and crucifixion is the probable intention since the penalty is Roman. The rarity of explicit impalement in Roman texts supports the translation. The first text indicates that burial was possible in some cases.

3.7 Blood

A Mishnaic text discusses when a woman may remarry. One example is:

They do not testify [to his death] until his soul leaves, even if they saw him being bled to death, and being crucified, and a wild animal eating him.¹¹⁰

אין מעדיין אלא עד שתצא נפשו ואפילו ראוהו מגוייד וצלוב והחיה אוכלת בו.

¹⁰⁷ Semahot 2.9 (44b). My trans. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 200-1. Text of D. Zlotnick, *The Tractate Mourning*, New Haven 1966, 4.

¹⁰⁸ Cf. Zlotnick, *The Tractate Mourning*, 104.

¹⁰⁹ Semahot 2.11 (44b). Trans. of Zlotnick, *The Tractate Mourning*, 36.

¹¹⁰ m. Yeb. 16:3. Chapman, *Ancient Jewish and Christian Perceptions*, 198 translates “bleeding to death” instead of “being cut.” He follows Jastrow, s.v. ייך where it is defined as “cut an artery through, bleed to death.” Cf. Blackman, *Mishnayoth*, 3.114-5 (“being cut to pieces or crucified or a wild beast devouring him”). It is presumably a Pu‘al participle. Rashi (b. Yeb. 120a) quotes Dan 4:11 “cut down the tree” and then mentions “cut, and full of wounds and the wounds of a sword” as examples of the meaning of מגוייד (apparently deriving it from גיד) מנותח ומלא פצעים וחבורות הרב: (גיד)

This text perhaps shows that some crucified individuals bled (unless the events are completely separate), but also illustrates the occasional fate of crucified bodies (being consumed by wild animals).¹¹¹ The Gemara in the Palestinian Talmud considers the possibility of redemption. After the phrase “they saw him being bled to death [or cut],” the Talmud has:

I affirm that he was [possibly] cut by a glowing sword and lived. And crucified on the pole/cross: I affirm that a matron passed by him and liberated him.¹¹²

אני אומר בחרב מלובנת נכוה וחי. וצלב על הצלב אומר אני מטרונא עברה עליו
ופדאור

This text indicates that one can survive crucifixion. Impalement results in immediate death, and one could not survive it (intro. § 1). Chapman calls attention to the story in Josephus when Titus allowed him to have three friends taken down from their crosses.¹¹³

Although crucified individuals may not have bled much, the rabbis did discuss it. A Mishnaic text considers this case:

What is deemed as “intermingled” blood? If a man were crucified, and his blood flows, and there was found beneath him a quarter-log of blood, it is unclean; but in the case of a corpse whose blood is dripping away there was found beneath it a quarter-log of blood, it is clean. R. Judah says, This is not so, but the blood that flows out gently is clean and that which trickles out is unclean.¹¹⁴

איוהו דם תבוסה צלב שדמו שותת ונמצא תחתיו רביעית דם טמא. אבל המת שדמו
מנטף ונמצא תחתיו רביעית דם טהור. רבי יהודה אומר לא כי אלא השותת טהור
והמנטף טמא:

An impaled body would certainly produce more than a quarter-log of blood (one fourth of the content of six eggs), so “crucified” is a better translation than “impaled” here and, I believe, in all examples of the verb. In the Tosefta the views are attributed differently.

Rabbi Simeon said that in the case of a crucified individual whose blood flows and there is found beneath him a quarter-log of blood, it is clean, but in the case of a corpse whose

¹¹¹ Chapt. 6 § 1.2.

¹¹² y. Yeb. 16:3 (15c Krotoschin). Jastrow’s (Dictionary, s.v. פד) translates “as regards him whom witnesses have seen impaled, I may say, an influential woman passed by and liberated him” is incorrect, since the individual survived the process (i.e., was redeemed). On the text, cf. Chapman, *Ancient Jewish and Christian Perceptions*, 198.

¹¹³ Chapman, *Ancient Jewish and Christian Perceptions*, 198 with ref. to Josephus Vita 420.

¹¹⁴ m. Ohol. 3:5. Trans. of Blackman, *Mishnayoth*, 6.214 slightly modified (he uses “impaled” instead of crucified, but in his note lists “crucified, hanged, impaled” as possible translations). Likewise Blackman translates השותת as “gush,” but Jastrow, Dictionary, s.v. שרה gives a more reasonable “to come down slowly, flow gently.” Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 196 (who notes that a log was equivalent to the content of six eggs). Cp. Jastrow, Dictionary, s.v. לו.

blood drips and there is found beneath it a quarter-log of blood, it is unclean. Rabbi Judah declares it clean because "I hold that the last drop [of blood] of death might remain on the tree/beam."¹¹⁵

ר' שמעון אומר צלוב שדמו שותת ונמצאת תחתיו רביעית דם טהור אבל מות שדמו מנטף ונמצא תחתיו רביעית דם טמא ר' יהודה מטהר שאני אומר טיפה האחרונה של מיתה עמדו לה על העץ:

A similar tradition, in the name of R. Eliezer b. Judah, occurs in Sifre Zuta:

What is deemed as "intermingled" blood? If a man were crucified, and his blood flows, and there was found beneath him a quarter-log of blood, <and it is unknown how much came from his living body and how much after his death, this> is combined [and so unclean] and the corpse whose blood drips and there is found beneath it a quarter-log of blood, this is not combined [and so not unclean]. R. Judah argues that things are the reverse: but [blood that flows] is not combined and blood that drips is combined [unclean].¹¹⁶

איזהו דם תפוסה צלוב [שד]מו שותת ונמצא תחתיו רביעית דם <ואין ידוע כמה יצא מחיים וכמה יצא אחר מיתה ד"ז> מצטרף והמות שדמו מנטף <ונמצא תחתיו> רביעית דם אינו מצטרף. ר' יהודה או' חילוף דברים. אלא <השותת> אינו מצטרף והמנטף מצטרף.

In the Talmud, the tradition is:

R. Simeon ruled: If the blood of a man crucified upon the beam was flowing slowly to the ground, and a quarter of a log of blood was found under him, it is unclean. R. Judah declared it clean, since it might be held that the drop of death remained on the body of the beam.¹¹⁷

רבי שמעון אומר: צלוב על העץ שדמו שותת לארץ ונמצא תחתיו רביעית דם - טמא. רבי יהודה מטהר שאני אומר טפה של מיתה עומדת לו על גב העץ.

The evidence of this text indicates a crucifixion and not an impalement, since the individual dies slowly. This same spectacle occurs in a text in which a man being crucified decides to divorce his wife:

In the case of an individual being crucified and bleeding to death, he gestures to write a document [of divorce] from his wife, they write it and give it to her as long as there is life [soul, breath] in him.¹¹⁸

היה צלוב ומגוייד ורמזו לכתוב גט לאשתו כותבין ונותנין לה כל זמן שיש בו נשמה

¹¹⁵ t. Ohol. 4.11.

¹¹⁶ Sifre Zuta 19.11 (Siphre D'be Rab Fasciculis primus. Siphre ad Numeros adjecto Siphre zutta cum variis lectionibus et adnotationibus, ed. H. S. Horowitz, Frankfurt 1917, 307). S. Lieberman, Siphre Zutta. (The Midrash of Lydda), New York 1968, 48 (whose text I used above) does not include Horowitz's explanatory additions between the angular brackets and also prints תפוסה instead of Horowitz's תפוסה.

¹¹⁷ b. Nid. 71b. Trans. of Babylonian Talmud. Seder Tohoroth, ed. I. Epstein, London 1952, 498.

¹¹⁸ t. Git. 7[5].1 (Lieberman). Cf. Chapman, Ancient Jewish and Christian Perceptions, 197.

The participle *מנייד* in this context, if it refers to the crucifixion event and not a separate form of execution, probably implies that the individual is bleeding (or bleeding to death). The tradition in the Yerushalmi clearly separates the two events:

In the case of an individual being crucified or bleeding to death [or “being cut”] who gestures and says write a Git [divorce document] for his wife, then they write it.¹¹⁹

הרי שהיה צלוב או מנייד ורמז ואמר כתבו נט לאשתו כותבין

The two events are also separated in a baraita in the Babylonian Talmud by *אי* (or).¹²⁰

And it has been taught, If people saw him being cut [or “bleeding”] or nailed to a cross and he indicated by a gesture, Write a Git for my wife, behold they write it and deliver it.¹²¹

ותניא: ראוהו מנייד או צלוב על הצליבה ורמז ואמר כתבו נט לאשתי - הרי אלו יכתבו ויתנו!

In this case it seems apparent that the reference to “being cut” or “being bled to death” is a different event from the crucifixion of the hypothetical individual. The verb plainly means “crucify” and not “impale,” because impalement would result in immediate death.

3.8 Nails

In Esther Rabbah, Haman laments his fate, speaking to Mordecai:

Rise and dress yourself. What an ill fate is mine concerning that man! Yesterday I was busy erecting a cross for him and God is preparing him a crown! I was preparing for you ropes and nails, and God prepares for you royal apparel. I was going to request from the king permission to crucify you on a cross, and he has bidden me mount you on horseback. Rise and dress.¹²²

עמוד ולבוש כמה ביש נדא דההוא נברא אמש אני הייתי עסיק להתקין ליה צליבא הקב"ה מתקין ליה כלילא אני הייתי מתקן לך חבלים ומסמרים הקב"ה מתקן לך לבוש מלכות אנא בעינא מן מלכא למוציא יתך על צליבא והוא אמר לי למירכב לך על סוסיא עמוד ולבוש

¹¹⁹ y. Git. 7:1 (48c Krotoschin).

¹²⁰ b. Git. 70b.

¹²¹ b. Git. 70b, trans. modified of Epstein, Babylonian Talmud, Seder Nashim, 4.335.

¹²² Esth. Rab. 10:5, trans. modified of Midrash Rabba, 10 vols., ed. H. Freedman and M. Simon, London/New York 1983, 9.117 (they translate “gallows” instead of “cross” and “hang you” instead of “crucify you on a cross”). Cf. also Chapman, Ancient Jewish and Christian Perceptions, 169.

The conjunction of ropes and nails along with the usual words for crucifixion imply that this is not a gallows.¹²³ Impalement can be ruled out here, because the use of nails suggests a crucifixion (as in the case of the nail in the crucified man's right calcaneum [figures 11-13]).

Nails used in crucifixion also served medicinal and magic purposes. A Mishnaic text has this prescription:

They may go out [on the Sabbath] with the egg of a ḥargol [a kind of locust], and with a tooth of a fox, and with the nail of the cross for the sake of healing – so says Rabbi Yose. But Rabbi Meir says even in an ordinary day it is forbidden, because of the “ways of the Amorite.”¹²⁴

בביצת החרגול ובשן של שועל ובמסמר הצלוב משום רפואה. דברי ר' יוסי ור' מאיר
יוצאין אומר אף בחול אסור משום דרכי האמורי:

Rabbi Meir (in this textual tradition) views the practice as magical and so forbids it.¹²⁵ The nail indicates that crucifixion is the intention of the text. A love potion from the Cairo Geniza counsels the lover:

Take a nail from the wood of someone crucified, and make it a seal.¹²⁶

כד מסמ[א]ר מן כשבה מצלוב ואעמל מנה כאחם

In this magic recipe also, the nail indicates a crucifixion.

3.9 Jose ben Jo'ezer

There is a tradition in *Genesis Rabbah* that Rabbi Jose ben Jo'ezer was crucified. He was presumably a rabbi during the “early Maccabean period.” He was one member of the first of the *zugot*.¹²⁷

Jaḳim of Z̄eroroth was the nephew of R. Jose b. Jo'ezer of Z̄eredah. Riding on a horse he [Jaḳim] went before the beam on which he [R. Jose] was to be crucified, and taunted him “See the horse on which my master has let me ride, and the horse upon which your Master

¹²³ Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 169. “Gallows” is the trans. of Freedman and Simon, *Midrash Rabba*, 9.117.

¹²⁴ m. Shabb. 6:10, trans. of Chapman, *Ancient Jewish and Christian Perceptions*, 182 (who notes some MSS omit R. Yose's name). Instead of “Rabbi Meir” some MSS have “the sages.” Blackman, *Mishnayoth*, 2.43 translates “nail from a stake” and in his note mentions “gallows” as a possibility.

¹²⁵ Chapman, *Ancient Jewish and Christian Perceptions*, 182 notes that in y. Shabb. 6:9 (8c Krotoschin the roles of the rabbis are reversed (and the Yerushalmi asserts that such a nail is good for spider bites [טב לעכביהא: טב לעכביהא]). In b. Shabb 67a, such nails are good for inflammation: (ובמסמר מן הצלוב: דעבדי לזרפא). (ובמסמר מן הצלוב: דעבדי לזרפא).

¹²⁶ T-S Arabic 44.44 (2/18). Trans. of J. Naveh and S. Shaked, *Amulets and Magic Bowls. Aramaic Incantations of Late Antiquity*, Jerusalem/Leiden 1985, 220-22. The letter in brackets is a small character above the second mem. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 183 (who refers to Plin. Nat. 28.46).

¹²⁷ Cf. I. Broydé, Jose ben Joezer of Zereda, *JE* 7 (1904) 242.

had made you ride.” “If it is so with those who anger Him, how much more with those who do His will,” he replied. “Has then any man done His will more than thou?” he jeered. “If it is thus with those who do His will, how much more with those who anger Him,” He retorted. This pierced him like the poison of a snake, and he went and subjected himself to the four modes of execution inflicted by the Beth Din: stoning, burning, decapitation, and strangulation. What did he do? He took a post and planted it in the earth, raised a wall of stones around it and tied a cord to it. He made a fire in front of it and fixed a sword in the middle [of the post]. He hanged himself on the post, the cord was burnt through and he was strangled. The sword caught him, while the wall [of stones] fell upon him and he was burnt. Jose b. Jo’ezer of Zeredah fell asleep and saw his [Jaḳim’s] bier flying in the air. “By a little while he has preceded me into the Garden of Eden,” said he.¹²⁸

יקים איש צרורות היה בן אחותו של ר' יוסי בן יעזר איש צרידה והוא רכיב סוסיה. אזל קמי שריתא אזל¹²⁹ למצטלבה, אמר ליה חמי סוסי דארכבי מרי וחמי סוסך דארכבך מרך אמר ליה אם כך למכעיסיו קל וחומר לעושי רצונו אמר לו ועשה אדם רצונו יותר ממך אמר לו ואם כך לעושי רצונו קל וחומר למכעיסיו נכנס בו הדבר כארס שלחכנה הלך וקיים בו ארבע מיתות בית דין סקילה שריפה הרג וחנק מה עשה הביא קורה ונעצה בארץ ועשה סביבה נדר וקשר בה ניניא [ועשה מדורה לפניו ונעץ את החרב באמצע נתלה בקורה נפסקה ניניא] ונחנק קידמתו החרב ונחפך עליו נדר ונשרף, נתנמנם יוסי בן יעזר וראה את מיטתו פורחה באויר אמר בשעה קלה קידמני זה לגן עדן:

Jaḳim is not said to be strangled before the cord was broken (נפסקה), or “burned through.” This is closer to the Mishnaic practice of strangulation in which an individual was executed while standing on the ground. Another text in which תלה describes suicide by noose occurs in a metaphor of R. Akiba who told R. Simeon b. Yohai that if he has to, he should attach himself to an important authority:

If you wish to be strangled, be hanged on a large tree.¹³⁰

אם בקשת ליהנות היתלה באילן גדול

Rabbi Jose’s protracted death indicates that crucifixion is the intention of the text (and not impalement, for example). It is possible that Jaḳim is the Alcimus of 1 Maccabees 7-9 whom Josephus also names Jakeimos.¹³¹ In

¹²⁸ Gen. Rab. 65:22 (on Gen 27:23). Text from Bereschit Rabba, 2.742-44 (Theodor/Albeck). Trans. of Freedman and Simon, Midrash Rabba, 2.599-600. Cf. Chapman, Ancient Jewish and Christian Perceptions, 50-1.

¹²⁹ J. Theodor and C. Albeck read למצטלבה, and other MSS have למצטבלא, למיזבלא, למיזבלא, and other MSS have למצטבלא, למיזבלא, למיזבלא. Cf. idem, Bereschit Rabba, ed. J. Theodor and C. Albeck, 3 vols, Berlin 1912-36, 2.742. Theodor and Albeck’s textual choice makes best sense.

¹³⁰ b. Pes. 112a, trans. from Soncino Babylonian Talmud. Pesahim, ed. I. Epstein, London 1938, 577. R. Simeon wanted R. Aqiba to teach him Torah, although Aqiba was in prison.

¹³¹ Josephus A.J. 12.385 (“the high priest Alcimus also named Jakeimos” [ἀρχιερεὺς ... Ἰάκιμος ὁ καὶ Ἰάκιμος]) 20.235 (Jakimos the high priest [Ἰάκιμον ἀρχιερέα]), Chap-

Midrash Tehillim, commenting on “The upright shall behold his face” (Ps. 11:7), the sages are responsible for this tradition:

He [Jakum of Zeroroth] was riding on a horse. During a time of persecution a decree was issued that Jose ben Jo’ezer should be crucified. The beam went before, and he went forth to be crucified.¹³²

הוה רכיב על סוסיא כד הוה אשתמד נפיק נזירתיה על יוסי בן יועזר לאיצטלבא ואיל
קמיה שירתא ונפק לאיצטלבא

Whether there is any historical core to this narrative of R. Jose’s crucifixion or not is an open question. Chapman makes the important point that neither Josephus nor 1 Maccabees support the contention that Alcimus/Jakim committed suicide.¹³³

3.10 The Hadrianic Persecution?

The Mekhilta de-Rabbi Ishmael contains this account of a persecution:

Of Them that Love Me and Keep My Commandments. “Of them that love Me,” refers to our father Abraham and such as are like him. “And keep My commandments,” refers to the prophets and the elders. R. Nathan says: “Of them that love Me and keep My commandments,” refers to those who dwell in the land of Israel and risk their lives for the sake of the commandments. “Why are you being led out to be decapitated [killed]?” “Because I circumcised my son to be an Israelite.” “Why are you being led out to be burned?” “Because I read the Torah.” “Why are you being led out to be crucified?” “Because I ate the unleavened bread.” “Why are you getting a hundred lashes?” “Because I performed the ceremony of the Lulab.” And it says: “Those with which I was wounded in the house of my friends” (Zech 13:6). These wounds caused me to be beloved of My father in heaven.¹³⁴

לאוהבי ולשומרי מצותי. לאוהבי זה אברהם אבינו וכיוצא בו ולשומרי מצותי אלו
הנביאים והזקנים. רבי נתן אומר לאוהבי ולשומרי מצותי אלו שהם יושבין בארץ
ישראל ונותנין נפשם על המצות מה לך יוצא ליהרג על שמלתי את בני [ישראל] מה
לך יוצא לישרף על בתורה שקראתי מה לך יוצא ליצלב על שאכלתי את המצה מה
לך לוקה מאה פרגל על שנשלתי את הלולב. ואומר אשר הכתי בית מאהבי מכות
אלו גרמו לי לאהב לאבי שבשמים:

Two later parallel traditions, in Leviticus Rabbah and Midrash Tehillim, do not contain the name of R. Nathan (ca 145-160 C.E.), and do not mention cru-

man, *Ancient Jewish and Christian Perceptions*, 51. The identification is assumed by B. E. Scolnic, *Alcimus. Enemy of the Maccabees*, Lanham, MD 2005, 72-9.

¹³² Midr. Ps 11:7 (Midrash Tehillim [Shoher Tov], ed. S. Buber, Vilna 1891, 103).

¹³³ 1 Macc 9:54-56, Josephus A.J. 12.413, Chapman, *Ancient Jewish and Christian Perceptions*, 52.

¹³⁴ Mekilta, Bahodesh 6 on Exod 20:3-6, text from Chapman, *Ancient Jewish and Christian Perceptions*, 90-91 based on J. Z. Lauterbach, *Mekilta de-Rabbi Ishmael*, 2 vols., Philadelphia² 2004, 2.324-5 and H. S. Horowitz and I. A. Rabin, *Mekhilta D’Rabbi Ismael*, Corpus Tannaiticum 3.1(3), Frankfurt 1931, 227. Trans. of Lauterbach, *Mekilta*, 2.324-5.

cifixion. They also vary in the lists of penalties and grounds for the penalties. There are other later midrashim, however, that do include R. Nathan and crucifixion.¹³⁵ The executions reflect those of Rome, beginning with the sword and continuing with more extreme forms. The loanword (פרגל) for “scourge” (*flagellum* φραγέλλιον) also indicates the relationship to the extreme penalties, the *summa supplicia* (cf. chapt. 5 § 1.2).

3.11 Simeon b. Shetach and the Witches

The Mishnaic tradition is ambiguous about exactly how Simeon “suspended” the witches of Ashkelon, because it uses the verb תלה.¹³⁶ The tradition in the Palestinian Talmud, however, used צלבונין to describe the entire process:

He motioned to each one of them to take one [woman] and lift her off the ground and what is done [would] not be successful [i.e., their magic would not work]. And he said to one woman, “Bring forth bread.” [She said,] “Bread” but it did not come forth. He said Bring forth the pole for crucifixion.” [He said to another,] “Bring forth a cooked dish.” [She said,] “Cooked dish” but it did not come forth. He said “Bring forth the pole for crucifixion.” [And he said,] “Bring forth wine, but it did not come forth. He said, “Bring forth the pole for crucifixion. And thus did he to all of them.¹³⁷

רמז לון כל חד מינכון יטול חדא ויטלשלינה מארעא ולא מצלח מה דו עבדה והוה אמר
לחיה דאיתת פיתא אייתי פיתא ולא מייתא והוא אמר אייתי לצליבא אייתי תבשילא ולא
מייתא והוא אמר אייתי לצליבא אייתי חמר ולא מייתא והוא אמר אייתי לצליבא כן
עבר לכולהו.

The tradition in y. Ḥagiga includes a variation of the story and concludes:

And they lifted them up and so they went forth and crucified them. This is what we learn is the work of Simeon ben Shetach who suspended the women in Ashkelon.¹³⁸

ושענונין ואולין וצלבונין הדא היא דתנינן מעשה בשמעון בן שטח שתלה נשים באשקלון

Impalement is probably not the intention here, since the normal usage of צלב is for crucifixion. The rarity of explicit impalement in Greco-Roman texts of

¹³⁵ Chapman, *Ancient Jewish and Christian Perceptions*, 91, with ref. to Lev. Rab. 32.1 on Lev 24:10 and Midr. Psa. on Ps 12:5 (109 Buber). To Chapman’s references should be added Yal., Torah, Jethro 20 § רצב (p. 174 Warsaw [1876]) which mentions R. Nathan and crucifixion; Yal. Zech 13 (p. 872 Warsaw [1877]), no mention of R. Nathan or crucifixion, but the same haggadic tradition; Midrash Tannaim leDebarim 5:9 (20 Hoffman), no mention of R. Nathan, but does include the penalty of crucifixion.

¹³⁶ m. Sanh. 6:4 (§ 2.3 above), and see the text and trans. in Chapman, *Ancient Jewish and Christian Perceptions*, 66.

¹³⁷ y. Sanh. 6:8, 23c (Krotoschin ed. = 6:6 Vilna ed.) par y. Ḥag. 2:2, 77d-78a, trans. slightly modified of M. L. Satlow, *Fictional Women: A Study in Stereotypes*, in *The Talmud-Yerushalmi and Graeco-Roman Culture*, vol. 3 TSAJ 93, ed. P. Schäfer, Tübingen 2002, 225-46, esp. 238.

¹³⁸ y. Ḥag. 2:2, 78a (Krotoschin ed.).

the imperium is another argument in favor of crucifixion. There are no explicit semantic clues in the text that indicate impalement either.¹³⁹

3.12 Brigands

A third generation Tannaitic rabbi transmits this parable about Deut 21:23:

R. Meir said: What means the Scripture: For the one who is suspended is a curse of God? It is as though there were two brothers, twins, who were like one another in appearance; one became king of the world, while the other went off and consorted with brigands. After a time the latter was captured and crucified on a pole/cross, and all who came and went said, "It is like as though the king were crucified." Therefore it is said: For the one who is suspended is a curse of God.¹⁴⁰

היה ר' מאיר אומ' מה תלמ' לומר כי קללת אלהים תלוי לשני אחים תאומים דומין זה לזה אחד מלך על כל העולם כולו ואחד יצא לליסטיא לאחר זמן נתפס זה שיצא לליסטיא והיו צולבין אותו על הצלוב והיה כל עובר ושב או דומה שהמלך צלוב לכך נאמר כי קללת אלהים תלוי:

Although it is possible to translate the text as "impale," since a Roman punishment is in question it is more likely that crucifixion is the reference.¹⁴¹ The death of the brigand twin in the parable, consequently, is probably by crucifixion, and the Roman practice of crucifying such individuals (cp. the loan-word for "brigand") is compared to Mishnaic practice in R. Meir's narrative.¹⁴²

A text in the Mekilta de-Rabbi Ishmael includes a midrashic comment on Exod 15:9 in which Pharaoh (instead of "the enemy") threatens Israel. The answer of the Midrash is:

To give a parable, to what can this be compared? To the following: A robber standing behind the king's palace, defiantly says: "If I find the prince [son of the king], I shall seize him, I shall kill him, I shall crucify him, I shall make him die the most cruel death." So also did the wicked Pharaoh boast defiantly in the land of Egypt: "The enemy said: 'I will pursue, I will overtake, etc.'" ...¹⁴³

מושלו משל למה הדבר דומה ללסטים שהיה עומד ומנאין אחר פלטרין של מלך אומר אם אמצא את בן המלך אני תופשו והורגו וצולבו וממית אותו מיתות חמורות כך

¹³⁹ See intro. § 1. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 66-9 is cautious about identifying the penalty with crucifixion. C. Iavicoli, *La crocifissione nell'ambiente ebraico*, Firenze 2005, 292-5 thinks it was crucifixion.

¹⁴⁰ t. San. 9:7, trans., slightly modified, of H. Danby, *Tractate Sanhedrin*, 92. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 145.

¹⁴¹ O. Betz takes the reference to be crucifixion (*Probleme des Prozesses Jesu*, ANRW II.25.1 [1982] 565-647, esp. 605) as does Chapman, *Ancient Jewish and Christian Perceptions*, 145.

¹⁴² For Mishnaic practice, which was not crucifixion, see m. San. 6:4 above (§ 2.4).

¹⁴³ Mek. de Rabbi Ishmael (Shirata 7), text and trans. from Lauterbach, *Mekilta*, 1.205-206. Cp. Chapman, *Ancient Jewish and Christian Perceptions*, 190 (trans.).

היה פרעה הרשע עומד ומנאץ בתוך ארץ מצרים אמר אייב ארדוף אשיג ונו'

Presumably the bandit is threatening the prince with crucifixion as a form of execution and not post-mortem suspension. In the same Midrash there is a reference to the crucifixion of brigands.

The Lord Shall Reign. When? When Thou wilt again build it with both Thy hands. To give a parable, to what is this to be compared? To the following: Robbers entered the palace of a king, despoiled his property, killed the royal household [*familia*] and destroyed the palace of the king. After some time, however, the king sat in judgment over them. Some of them he imprisoned, some of them he killed, some of them he crucified. He then again dwelt in his palace. And thereafter his reign was recognized in the world. In this sense it is said: "The sanctuary, O Lord, which Thy hands have established. The Lord shall reign for ever and ever."¹⁴⁴

י' ימלוך אימתי תבינהו בשתי ידיך. משל למה הדבר דומה ללסטים שנכנסו לפלשין של מלך בזזו נכסיו והרגו פמליא של מלך והחריבו פלשין של מלך לאחר זמן ישב עליהן המלך בדיון תפש מהם הרג מהם צלב מהם וישב בפלשין שלו ואחר כך נתודעה מלכותו בעולם לכך נאמר מקדש י' כונו ידיך י' ימלוך לעולם ועד.

In this parable about the rebuilding of the Temple of Jerusalem, the king (= God) crucified brigands, something that is frequent in Greco-Roman texts.¹⁴⁵ The parallel tradition in the Mekilta de-Rabbi Shimon has this question about the rebuilding of the Jerusalem temple:

They told a parable: To what is the matter alike?

It is like thieves [brigands] who entered the king's palace, and seized some of his servants; they killed some of them, crucified some of them, burned some of them, and laid waste to the palace. After some time the king came and sat in judgment over them. He seized some of them, killed some of them, crucified some of them, burned some of them, dwelled [once again] in his palace, and his kingship was acknowledged in the world.¹⁴⁶

מושלו משל למה הדבר דומה ללסטים שנכנסו לתוך פלשין של מלך תפסו מעבדיו והרגו מהן וצלבו מהן ושרפו מהן והחריבו פלשין שלו לאחר זמן בא המלך וישב עליהן בדיון תפש מהן וצלב מהן ושרף מהן וישב פלשין שלו ונדעה<ה> מלכותו בעולם.

The loanword *familia* found in the Mek. de-Rabbi Ishmael includes the slaves of the king's household, which is made clear in the text of Rabbi Shimon.

Another parable in Mek. de-Rabbi Shimon, after quoting Pharaoh's five-fold threat in Exod 15:9, mentions crucifixion:

They told a parable: To what is the matter alike? It is like a band of brigands that would stand behind the king's palace and [individually would] say, "I'm going to find the king's son and kill him! I'm going to crucify him! I'm going to burn him! I'll kill him in many

¹⁴⁴ Mek. de Rabbi Ishmael (Shirata 10), text and trans. from Lauterbach, Mekilta, 1.219. Cp. Chapman, *Ancient Jewish and Christian Perceptions*, 189.

¹⁴⁵ Chapt. 2 § 2.8, 2.13, chapt. 5 § 1.5 and cf. the index s.v. "brigands."

¹⁴⁶ MRS 36.2. Mekhilta de-Rabbi Shimon bar Yohai, ed. and trans. W. D. Nelson, Philadelphia 2006, 157 (text and trans.).

bad ways!" When the king heard, he was filled with anger at them. Likewise, Pharaoh threatened in Egypt ... [Exod 15:9].¹⁴⁷

מושלו משל למה הדבר דומה? הלערבי ליסטים שהיה עומד אחר פלשירו של מלך אמ' מוצא
אני בנו של מלך והורנו אני וצולבו אני ושרפו אני מאיתות רעות אני ממיתו שמע המלך
נתמלא עליו חמה כך היה פרעה עומד ומנאץ במצ' ...

The loanword for brigands brings Roman practice including the Roman crucifixion of brigands to mind. Chapman presents another interesting text from *Ecclesiastes Rabbah* about an unfortunate husband whose wife is jealous of a neighbor, a robber, who supports his family very well. She encourages him to accompany the brigand:

He went out in that night, the bandit [also] went out [with his men to rob], but the sergeant had planned to go after them. Since he [the bandit] was familiar with the paths he fled and was saved; but this man, being ignorant of the paths, was captured and crucified, and they quoted this proverb over him, "The last of the robbers is the first to be crucified."¹⁴⁸

נפק בהוא ליליא נפק ליסמא ותקין תוקטא בתריהון דין דהוה חכים שביליא ערק
ואשתיוז ודין לא הוה חכים שביליא איתצייד ואיצטלב וקרון עליו לקיש לסטים
בכור לצלובים:

Esther Rabbah mentions the crucifixion of robbers, in the context of Queen Vashti's refusal to make an entrance in the nude before the king. The text ends with a familiar rabbinic proverb.

R. Simeon bar Abba said in the name of Rabbi Johanan: Is it not so that the Holy One, blessed be He, punished the wicked ones in Gehinnom only naked? And what is the sense of the Scriptures (Psalms 73[:20]), "In waking you will despise their image." R. Samuel bar Nahman said, "Where the brigands rob, there he is crucified."¹⁴⁹

¹⁴⁷ MRS 33.1 (translation slightly modified; 143-44 Nelson).

¹⁴⁸ *Ecl. Rab.* 7.37 [21c] on *Ecl.* 7:26. Trans. modified of Freedman and Simon, *Midrash Rabbah*, 8.208. Cp. Chapman, *Ancient Jewish and Christian Perceptions*, 191. Sokoloff, *A Dictionary of Jewish Palestinian Aramaic*, s.v. תוקטא lists the meaning of this term as "unclear" and translates "he prepared a ... after them"

¹⁴⁹ *Esth. Rab.* 3:14 on *Esth.* 1:12. Trans. from Chapman, *Ancient Jewish and Christian Perceptions*, 192. To Chapman's references to the proverb one can add the nearly identical tradition which appears in *Siphre de Hagadah* on *Esther*, *Midrash* of Abba Goryon 1:210-3 on *Esth.* 1:11 (S. Buber, *Sammlung agadischer Commentare zum Buche Ester*, Vilna 1886, 14-15). Vashti is told, according to the haggadic interpretation, to come before the king wearing *only* her crown (and nothing else). In this text R. Simeon bar Nahman in the name of R. Johanan answers the question "Why in waking" [which comes immediately after the citation from *Ps.* 73:20] with the statement about brigands being crucified where they rob. In *Midr. Tanh. Tzavah* 7 (100 Buber) and 11/12 (172 Warsaw), the same proverb (המשל) about robbers being crucified where they rob appears except תלה is used instead of some form of צלב. In *Yal. Shim. Prov.* § 3 (975a Warsaw), the proverb uses תלה for the robber's fate and in *ibid.* *Ps.* § 72 the proverb has תלה (931a Warsaw). Sokoloff, *Dictionary of Jewish Palestinian Aramaic*, s.v. צלב mentions *Deut. Rab.* 82,3 (Liebermann) as another example of the proverb.

ר' שמעון בר אבא אמר בשם רבי יוחנן אין הקדוש ברוך הוא דן את הרשעים בניהנם
אלא ערומים ומה שעם דכתיב (תהלים ע"ג) בעיר צלמם תבזה אמר ר' שמואל בר
נחמן דין דליסטאות מקפח תמן מצטלב

There may be an echo in this text of the Roman practice of crucifying some individuals naked.¹⁵⁰ In the *Pesikta de-Rab Kahana*, Gehenna is placed in Jerusalem.¹⁵¹ R. Samuel's proverb appears in this form:

R. Samuel bar Nahmani said, "In the place where the brigands rob, there they crucify him. From Jerusalem they [the nations] robbed and then returned; therefore they will be crucified in Jerusalem."¹⁵²

א"ר שמואל בר' נחמני במקום שקיפח הליסטים שם צולבין אותו מן ירושלים קפחו
ושבו לפיכך יצולבו בירושלם

These crucifixions appear to be apocalyptic.

3.13 *The Last Judgment*

A text in *Pesikta*, after a reference to Ps 66:3, envisions the last judgment.

Those who are executed execute their executioners. Those who were crucified, crucify those who crucified them. Those who were drowned drown the individuals who drowned them.¹⁵³

הנהרגן הורגין את הורגיהן הנצלבין צולבין את צולביהן המשתקעין משקעין את
משקעיהן

If a Roman penalty is meant, then crucifixion is the likely reference. *Midrash Tehillim* compares execution in this world with God's judgment:

It is the custom in this world [age] that if a man hits the son of a prefect or the son of a king, they take off his head and burn him or crucify him, but the holy one, blessed be he, does not act so; but according to their actions he repays them ... [Isa 59:18]¹⁵⁴

בנוהג שבעולם אם יכה אדם בנו של אפרכוס או בנו של מלך נוטלין את ראשו
ושורפין אותו או צולבין אותו אבל הקב"ה אינו כן אלא כעל נמולות כעל ישלם ...

The midrash goes on to quote Ps 137:8 and Lam 3:64 on God's recompense for evil.¹⁵⁵ The text depicts either a pre-mortem or post-mortem crucifixion.

¹⁵⁰ Chapt. 6 § 1.2.

¹⁵¹ Chapman, *Ancient Jewish and Christian Perceptions*, 192.

¹⁵² *Pesiq Rab. Kah. Supplement 2.2*. Trans. of Chapman, *Ancient Jewish and Christian Perceptions*, 193. Text of B. Mandelbaum, *Pesikta de Rab Kahana*. According to an Oxford Manuscript with Variants from all Known Manuscripts and Genizoth Fragments and Parallel Passages with Commentary and Introductions, 2 vols., New York 1987, 2.453.

¹⁵³ Text of Mandelbaum, *Pesikta* (11.2), 1.178. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 193. The same statement is found in *Esth. Rab.* 10:15 after the quotation of Ps 66:3 and in *Midr. Ps.* 22:16 (in the name of R. Eliezer ben R. Jose, 188 Buber).

¹⁵⁴ *Midr. Ps.* 121:3 (507 Buber).

¹⁵⁵ Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 195.

Decollatio (beheading), *crematio*, and crucifixion were all Roman penalties.¹⁵⁶

3.14 Mordecai and Haman in Midrashic Literature

A midrashic interpretation of Deut 28:66 includes the threat of crucifixion.

Another explanation is: “Thy life shall hang in doubt before thee” – this applies to one who lies in prison at Caesarea. “And thou shall fear night and day” – this applies to who is brought forth for trial. “And thou shalt have no assurance of thy life” – this applies to one who is taken out to be crucified.¹⁵⁷

ד"א והיו חייך תלואים לך מנגד זה שהוא נתון בדיוטי של קיסרין ופחדת לילה ויומם
זה שהוא יוצא לידן ולא תאמין בחייך זה שהוא יוצא להצלב

One wonders if some of the Christian authors of the *contra Iudaeos* literature were aware of the rabbinic interpretation of this verse, since they used it occasionally as a prophecy of Jesus (including his crucifixion).¹⁵⁸

In a reference to Ahasuerus's decree that the officials of his palace could do as each desired, Esther Rabbah has,

Tomorrow two men will appear before you in a suit, a Jewish man and a man who is an adversary and an enemy. Can you satisfy both of them? You will have to exalt the one and crucify the other.¹⁵⁹

למחר שני בני אדם באים לפניך בדין איש יהודי ואיש צר ואויב יכול אתה לצאת ידי
שניהם אלא שאתה מרומם לזה וצולב לזה

In a discussion of the exact time when Ahasuerus's anger (Esth 1:12) was assuaged, the midrash argues,

When was his wrath really assuaged? When Haman was crucified, as it says “So they suspended Haman on the beam that he had prepared for Mordecai [Esth 7:10].” Then was the king's wrath assuaged.

¹⁵⁶ Cf. chapt. 5 § 1.2.

¹⁵⁷ Esth. Rab. Prologue 1. Trans. slightly modified of Freedman and Simon, *Midrash Rabbah*, 9.1 (who have “taken out to be executed”). See Chapman, *Ancient Jewish and Christian Perceptions*, 89.

¹⁵⁸ Iren. Haer. 4.10.2 (SC 100, 492,45-6 Rousseau/Doutreleau/Mercier), 5.18.3 (SC 153, 244 Rousseau/Doutreleau/Mercier), Origen Comm. Matt. 12.33, Evagr. Altercatio Simonis Iudaei et Theophili Christiani 6.22 (CChr.SL 64, 276 Demeulenaere), Altercatio Synagoga et Ecclesiae (CChr.SL 69A, 39,367-8 Hillgarth), Isid. Fide (De fide catholica contra Iudaeos) 1.35.2, 2.6.1 (PL 83.484, 510), Papisci et Philonis Iudaeorum cum monacho colloquium (A. C. McGiffert, *Dialogue between a Christian and a Jew*, New York 1889, 72,23-6). A. Lukyn Williams, *Adversus Iudaeos*. A Bird's-Eye View of Christian *Apologiae* until the Renaissance, Cambridge 1935, 170 dates the earliest recension of this last text to the seventh century.

¹⁵⁹ Esth. Rab. 2:14 (on Esth 1:8), trans. modified of Freedman and Simon, *Midrash Rabbah*, 9.42.

שככה חמתו כשנצלב המן הה' ויתלו את המן על העץ אשר הכין למרדכי וחמת המלך
שככה¹⁶⁰

Although impalement is a possibility, the reference to ropes and nails in Esth. Rab. 10:5 (cf. § 3.8) probably implies that crucifixion is the intention of the text. The Biblical text, however, may well be a reference to impalement.¹⁶¹

With regard to the fates of Bigthan and Teresh, who had conspired against the king, the midrash describes the end of Haman,

So He who has shown us the downfall of Bigthan and Teresh and their crucifixion will show us the downfall of Haman ... "And they suspended both of them on a beam." So this man too will in the end be crucified.¹⁶²

כך מו שהראנו במפלתן של בנתן ותרש וצליבתן הוא יראה לנו במפלתו של המן
ויתלו שניהם על עץ אף סופו של אותו האיש ליצלב

One text from the midrash apparently implies that Haman would be beheaded first:

By your life, your head will be taken off instead of theirs, since they are to be saved and you are to be crucified.¹⁶³

חייך רישך מתורם חלף רישיהון דאינון לשויבא ואת לצליבא

In this version of Haman's execution, he first loses his head before being suspended. The next section of the midrash omits the detail about beheading as God says to Haman:

Villain son of villain, your lot is drawn to be crucified.¹⁶⁴

רשע בן רשע נורלך עולה להצלב

Haman's wife Zeresh counsels him while he is on the way to put Mordecai to death, since the Jews (like Daniel in the lion's den) have been delivered from so many situations of mortal danger:

Crucify him therefore on a beam/cross, for we have not found one of his people who was delivered from that.¹⁶⁵

אלא צלוב יתיה על צליבא דלא אשכחינן חד מן עמור דאשתויב מניה

¹⁶⁰ Esth. Rab. 3:15, trans. modified of Freedman and Simon, Midrash Rabbah, 9.55.

¹⁶¹ Chapman, Ancient Jewish and Christian Perceptions, 162-3, 168-9 and Samuelsson, Crucifixion, 224-7.

¹⁶² Esth. Rab. 7:3, trans. modified of Freedman and Simon, Midrash Rabbah, 9.81.

¹⁶³ Esth. Rab. 7:10, trans. modified of Freedman and Simon, Midrash Rabbah, 9.86.

¹⁶⁴ Esth. Rab. 7:11, trans. modified of Freedman and Simon, Midrash Rabbah, 9.86.

¹⁶⁵ Esth. Rab. 9:2, trans. modified of Freedman and Simon, Midrash Rabbah, 9.110.

The possibility of deliverance from crucifixion implies that this is not an impalement (since the individual would die immediately and could not be saved). The midrash describes the death of Haman's daughter.

Haman's daughter looked from the window to see the crucifixion, but when she saw Mordecai on horseback and Haman proclaiming before him, "Thus shall be done to the man," etc., she threw herself to the ground and killed herself.¹⁶⁶

נשקפה מן החלון לראות בצליבא וכיון שראתה מרדכי רוכב ואביה מכריז לפניו ככה יעשה
לאיש השליכה עצמה לארץ ומתה

In Genesis Rabbah, the rabbis make this comment on Mordecai's vision:

Mordecai: yesterday he was ready for the cross [or pole for crucifixion], and now he crucifies his crucifier! Thus he saw a new world.¹⁶⁷

מרדכי אתמול היה מתוכן לצליבה ועכשיו הוא צולב את צולביו אלא שראה עולם חדש

A text in Exodus Rabbah describes the possible fate of the Jews:

For example: Those who were about to be crucified, crucified those who wished to crucify them, and those who were about to be killed, slew those who wished to slay them. Haman who wished to suspend Mordecai was himself suspended, with his children ...¹⁶⁸

כיצד הנצלבין צולבין את צולביהן הנהרגין הורגין את הורגיהן המן חשב לתלות את מרדכי
ותלו אותו ואת בניו

The text probably says more about Roman practice than rabbinic penalties.

Leviticus Rabbah has this tradition:

When Esther heard how matters stood she issued a proclamation throughout the province, saying: "let no one open his shop in the market-place! Let all the people go out, for the chief of the Jews is about to be crucified!"¹⁶⁹

כיון דשמעת אסתר כן אפקת כרוז בכל מדינתא ואמרה לא יפתח בר נש חנות בנו שוקא
כל עמא יפקון להון פרטי דיהודאי בעי למצטבלא

Pesiqta Rabbati mentions the reversal of the situation:

Those who were to be crucified, crucified; Haman – the beam, which he raised for Mordecai so that he could rise early and crucify him – himself rose early and was crucified on it.¹⁷⁰

הנצלבין צולבין המן העץ אשר הכין למרדכי להשכים ולצלות אותו והוא משכים ונצלב
עליו

¹⁶⁶ Esth. Rab. 10:5, trans. modified of Freedman and Simon, Midrash Rabbah, 9.118.

¹⁶⁷ Gen. Rab. 30:8, trans. modified of Freedman and Simon, Midrash Rabbah, 1.237.

¹⁶⁸ Exod. Rab. 20:10, trans. modified of Freedman and Simon, Midrash Rabbah, 3.251. Midr. Ps. 22:21 (192 Buber), after quoting Esther 8:16, mentions a boast of Haman's sons that they would kill and crucify [the Jews] on the morrow: למחר הם נהרגין ונצלבין.

¹⁶⁹ Lev. Rab. 28:6, trans. modified of Freedman and Simon, Midrash Rabbah, 4.366.

¹⁷⁰ Pesiq. Rab. 19.

Another midrash comments on Esth 1:12 and 2:1:

R. Jehohanan said that all those seven years from Vashti's execution until Haman was crucified, his [the king's] wrath burned within him. An objection: it is written "when it abated" (Esth 2:1); when it abated, but it did not [really] abate; there was an appeasement and yet it was no appeasement; and as soon as Haman was crucified the anger of the king abated.¹⁷¹

א"ר יוחנן כל אותן שבע שנים משנהרגה ושתי עד שנצלב המן היתה חמתו בוערת בו. מתיבי
הא כתיב כשוך ולא שוך שכיכה ולא שכיכה וכיון שנצלב המן וחמת המלך שככה

The same text speaks of Haman's end as crucifixion:

Also the end of that man was both to be esteemed and to be crucified.¹⁷²

אף סופו של אותו האיש לעלות ולצלב

It continues with a comparison of the fate of the two eunuchs and Haman:

Thus who shows us the crosses of Bigthan and Teresh will also show us the cross of Haman.¹⁷³

כך מי שהראה לן בצלובן של בנתן ותרש יראה לנו בצליבא של המן

Haman's crucifixion taught Israel:

But he was crucified on a pole (cross) so that we do not forget He who delivered [us] from it.¹⁷⁴

אלא צלוב יתיה על צליבא דלא אשכחן דשוייב מניה

3.15 Mordecai and Haman in the Targums to Esther

There are many uses of צלב in the Targums of Esther.¹⁷⁵ In the first Targum, composed perhaps between 500-700 C.E., the two conspirators against the king (Bigthan and Teresh) are executed:

And they both were crucified on a pole.¹⁷⁶

ואיצטליבו תריהון על קיסא

¹⁷¹ Siphre de Hagadah on Esther, Midrash of Abba Goryon 1:236-9 on Esth 2:1 (S. Buber, Sammlung agadischer Commentare zum Buche Ester, Vilna 1886, 16).

¹⁷² Midrash Abba Goryon 3:17 on Esth 3:1 (21 Buber).

¹⁷³ Midrash Abba Goryon 3:25 (21 Buber).

¹⁷⁴ Midrash Abba Goryon 5:9-10 on Esth 5:14 (37 Buber).

¹⁷⁵ Cf. Chapman, Ancient Jewish and Christian Perceptions, 168-9. The concordance to Tg. Esth. II prepared by B. Grossfeld (Targum Sheni to the Book of Esther: A Critical Edition Based on MS. Sassoon 282 with Critical Apparatus, ed. B. Grossfeld, New York, 1994, 158-9) indicates 51 uses of the verb צלב and 38 uses of the noun צליב. In the concordance he translates the verb as "impale" and the noun as "cross," but in his translation he uses "hang" and "gallows."

¹⁷⁶ Tg. Esth. I 2:23.

Zeresh and Haman's companions argue for the crucifixion of Mordecai:

Nevertheless, let there be made an erect beam, fifty cubits, (then) in the morning ask the king (that he give orders that) they crucify Mordechai upon it, for up until now not one of them was yet tried by being crucified on a pole/cross of wood and saved (from it).¹⁷⁷

ברם יעבדו אע זקוף¹⁷⁸ חמשין אמין ובצפרא אמר למלכא ויצלבון ית מרדכי עילווי דער
כרון לא איתנסי חד בצליבת קיסא ואשתזיב

The implication that one could be saved from the suspension on a pole implies that crucifixion and not impalement is the proper translation for the verb in the first Targum.¹⁷⁹ Harbonah suggests an appropriate method for Haman's death:

There is the pole upon which Haman prepared to crucify Mordechai, who spoke good on behalf of the king, and here this pole is standing in Haman's house – now if it pleases the king, let a beam be torn out of his house and after being raised up let him be struck upon it – to a height of fifty cubits. So the king said: Go and suspend him upon it. So they suspended and crucified Haman on the pole which he prepared for Mordechai, and the king's anger subsided.¹⁸⁰

הא קיסא דומין המן למצלב מרדכי דמליל טבא בגין מלכא והא קיסא קאים בביתא דהמן
כען אין על מלכא שפר יתנסח אע מן ביתיה וזקיף יתמחי עלוי רומיה חמשין אמין ואמר
מלכא איזילו צלבו יתיה עלוי: 10 ויתלו וצליבו ית המן על קיסא דומין למרדכי וריתחא
דמלכא אשתדכת:

In this context crucifixion seems to be the punishment intended, although there is some ambiguity. The ambiguity may be resolved in favor of crucifixion because of 5:14 above and the text in Tg. Esth. I 9:14 in which Haman and his ten sons are all suspended on the same pole. In the case of the sons it is a post-mortem suspension ("crucifixion").

So they crucified the ten sons of Haman. This, then, was the order of their crucifying in which they were crucified with their father on the pole which he prepared for Mordechai. Its height was fifty cubits, of which three cubits was stuck in the ground, making Parshandatha four and a half cubits above the ground, and Parshandatha was crucified in a space of three cubits at a distance of half a cubit from Dalphon; Dalphon was crucified in a space of three cubits at a distance of half a cubit from Aspatha; ... Wayzatha was crucified in a space of three cubits, at a distance of half a cubit from Haman; Haman was crucified

¹⁷⁷ Tg. Esth. I 5:14. Text from The First Targum to Esther. According to the MS Paris Hebrew 110 of the Bibliothèque Nationale, trans. and annotated by B. Grossfeld, New York 1983, 25. Trans. modified from, Grossfeld, The Two Targums, 68. Cp. the use of the same verb for suspend on a pole in 6:4 (למצלב ית מרדכי על קיסא).

¹⁷⁸ For the use of this Hebrew word (for "erect") in the Targumim, cp. Tg. Hos 11:7 and Tg. Mic 2:3.

¹⁷⁹ Cp. the matron who redeems individuals from crucifixion in § 3.7 and 3.21.

¹⁸⁰ Tg. Esth. I 7:9-10, trans. modified of Grossfeld, The First Targum, 65.

in a space of three cubits, and there were three cubits left above his head so that the birds might not eat of it.¹⁸¹

וית עשרתי בנוי דחמן צליבו ודין סידור צליבתהון דאיצטליבו עם חמן אבוהון על קיסא דזמין למרדכי דרומיה חמשין אמין תלת אמין הוה נעיין בארעא וארבע אמין ופלגא הוה רחיק פרשנדתא מן ארעא ופרשנדתא הוה צליב בתלת אמין והוה רחיק מן דלפון פלגות אמתא דלפון הוה צליב בתלת אמין והוה רחיק מן אספתא פלגות אמתא ... ויזתא הוה צליב בתלת אמין והוה רחיק מן חמן פלגות אמתא חמן הוה צליב בתלת אמין והוה על רשיה תלת אמין בנין דלא יכול מיניה עופא

The entire process indicates ante (Haman) or post-mortem (the sons) crucifixion and not impalement. The ten sons had already been executed.

In the Targum Sheni, Haman's wife Zeresh and his friends counsel him to crucify (or impale) Mordecai:

Let there be made a large beam/cross for him, and let his blood be poured out at the door of his house. Let his stature be placed upon the beam so that all his companions and friends may see him.¹⁸²

צליבא רבא יתעביד ליה ועל בבא דבייתיה דמיה ישתפך קומתיה יתרמי על צליבא ויחזון יתיה כל חבריה ורחמיה

The emphasis on blood indicates that hanging by a noose is not the intended form of death. Crucifixion seems to be the intention of the text given the use of the verb "placed" (יתרמי). A heavenly voice then tells Haman that he has made the pole/cross for himself (ועבד צליבא לנפשיה).¹⁸³ After Haman's fortune changes, Ahasuerus commands Mordecai to crucify him:

And crucify him on the cross [pole for crucifixion] that was obtained [for himself], and torture him with evil tortures and do to him as it is right to you.¹⁸⁴

ועלוב יתיה על צליבא דאתקין ודין יתיה דינין בישינ ועיבד ביה היך דשפיר באפיה

Haman responds,

... before they will raise him on the cross, I beg of you, O righteous Mordekhai, do not suspend me as they crucify common criminals.¹⁸⁵

קדם עד דלא יסקון יתיה לצליבא בבעו מינך מרד' צדיק' לא תצלבני כהדין דצלבין לנברין הדיוט'

¹⁸¹ Tg. Esth. I 9:14, trans. modified of Grossfeld, *The First Targum*, 69-70.

¹⁸² Tg. Esth. II 5:14, trans. modified of Grossfeld, *The Two Targums*, 166. He uses "gallows" instead of "pole/cross."

¹⁸³ Tg. Esth. II 5:14.

¹⁸⁴ Tg. Esth. II 7:10. Cf. Grossfeld, *The Targum Sheni*, 65 (who numbers the text as 7:10 in his ed. of the Aramaic text, but 7:9 in his trans.).

¹⁸⁵ Tg. Esth. II 7:10. Trans. modified of B. Grossfeld, *The Two Targums of Esther*. Translated, with Apparatus and Notes, ArBib 18, Collegeville, MN 1991, 179.

“Raise” excludes impalement. Haman’s request not to be executed as a “common criminal” clearly is a reference to the crucifixion practices of Romans, i.e., an anachronism like the subsequent reference to Jesus. He continues,

I beg of you, spare my life, O my righteous lord Mordekhai; do not summarily blot out my name like that of my ancestor Amaleq and do not crucify my grey head [or “old age”] on the cross/pole. But if you are determined to kill me, remove my head with the king’s sword, with which all the nobles of the provinces are killed.¹⁸⁶

בבעו מינך חוס על נפשי מרי מרד' צדיקא לא תמחי ית שמי בפריע כעמלק אבא וסיבותי
על צליב' לא תצלוּב והיך דאת בעי קטול יתי רישי תעדי בסייפיה דמלכ דבה מתקטלין
כל רברבני מדינתא

After Mordecai refuses Haman’s request for mercy, Haman laments:

And so he said, “listen to me, trees and all plants which have been planted¹⁸⁷ since the earliest days¹⁸⁸: the son of Hammadetha seeks to climb the high mast of ben Pandira.¹⁸⁹

וכן אמר אציתו לי אילניא וכל שתיליא דשתילו מן יומי בראשית דבר המדתא בעי למסך
לאלכסנריא דבר פנדר'

Jastrow translates אכסנדריא [the reading he adopts] as “an Alexandrian merchantman (*Alexandrina navis*),” which he writes has a transferred meaning “high mast” and in this text is used satirically for “cross” or “gallows.”¹⁹⁰ Ben Pandira (or Pandera) is Jesus.¹⁹¹ Haman climbs on the cross and so is not impaled. The Targum describes Haman’s crucifixion, but does not mention his death.¹⁹² The punishment in the narrative of the second Targum is clearly not hanging by a noose or impalement, since Mordecai speaks to Haman

¹⁸⁶ Tg. Esth. II 7:10, trans. modified of Grossfeld, *The Two Targums* 180.

¹⁸⁷ דשתילו (which have been planted) is a MS variation here. The printed editions have די שתיליה (which I planted) here.

¹⁸⁸ Most MSS have יומא here.

¹⁸⁹ Tg. Esth. II 7:10.

¹⁹⁰ Jastrow, *Dictionary*, s.v. אכסנדריא. Cp. Suet. Nero 45.1 (*Alexandrina navis*) and Galb. 10.4. Grossfeld, *The Two Targums*, 180 translates with “when the son of Hammadetha wanted to go up to Alexandria of Bar-Pandera.” He does not consider Jastrow’s translation. For images of “mast” as cross, cf. chapt. 2 § 3.1.4, 3.24.1. Grossfeld believes the best interpretation is “to the exedra of the musicians,” based on the loanwords אכסנדריא (ἐξέδρα) and πᾶνδρα (three-stringed lute). The context (crucifixion) and the clear reference to Jesus indicate that Jastrow’s translation is to be preferred. L. Ginzberg, *The Legends of the Jews*, vol. 6, Baltimore 1998, 479 argues for a connection with the “legend” of the cross of Jesus, but translates the ambiguous word as “lodging” (reading אכסניא).

¹⁹¹ Cf. P. Schäfer, *Jesus in the Talmud*, Princeton 2007, 19 (with reference to t. Hul. 2:22, [ישוע בן פנדרא], 2:24 [ישוע בן פנדרא], y. ‘Avod. Zar. 40d [דישוי בן פנדרא], y. Šabb. 14d [דישוי בן פנדרא]) and the index s.v. ben Pandera. See also Cook, *New Testament*, 25, 29-30, Halperin, *Crucifixion*, 39.

¹⁹² Tg. Esth. II 7:10 (Grossfeld, *The Targum Sheni*, 67) ועלבו יתיה על צליבא

while he hangs on his cross.¹⁹³ The Targum describes the execution of Haman's sons first.¹⁹⁴ It continues,

When Mordekhai came and saw Haman and his sons crucified on the cross, Mordekhai reacted, saying to Haman: You schemed to do evil to the people of the House of Israel, but the One who knows the mysteries and designs has brought your design upon your own head. You sought to kill us and wipe us out from beneath the wings of our Father in Heaven, but they have dealt (accordingly) with you and crucified you and your sons beneath your wings."¹⁹⁵

ואתא מרדכי וחזא ית המן ולבניו דצליבין על צליבא עני מרד' ואמר להמן את חשבת
למעבר בישא לעמא בית ישראל וידע סתירת' ומחשבתא אסיק מחשבתך ברישך את בעי
למקטל יתן ולמשציא יתן מתחות כנפוי דאבונן דבשמ' ואינון עבדין עמך וצליבין יתך
ולבניך תחות כנפך

There is no indication in the preceding text that Haman was already dead, in contrast to its description of the prior death of the sons. The image is one of the suspension (post-mortem) of Haman's sons on a huge pole and subsequently the narrator envisions the living Haman crucified at the top of the same pole.

A fragment of the Targum to Esther from the Cairo Geniza describes the beam Haman wanted to use for Mordecai. He had a beam in his house that was from Noah's ark (his son Parshandatha was the ruler of Kerdos from whence the stake came).

10 Noah's ark. And Haman uprooted it from his house, so that the curse
11 of Darius might be fulfilled in him, as it is written, "Whosoever alters this [decree],
shall have the wood[en beam]
12 removed from his house, and he shall be impaled" etc. (Ezra 6:11). And this advice
[lit.: 'word'] found favor with Haman,
13 and he prepared a cross for himself; [] he erected it and perfected it.
14 [] a [heavenly] voice called out saying, "how proper and fitting
15 is this beam (cross) for you. (6:1) On that night etc.:
16 On that night sleep [deserted] the carpenters who were preparing the cross
17 for Haman. On that night sleep deserted the smiths who were preparing
18 nails to be set in the cross ...¹⁹⁶

10 חיבותא דננח] ועקר יתה המן מן בני' תיה מטול דתחקים
11 ביה לוטא דדריש דכ' ואנש [די יה] שנא דנא יתנסח
12 אע מן ביתיה וזקיף ונ' ושפר פיתגמא קדמו' דהמן
13 ועבר צל' בא לנרמיה [] א[תקין יתיה ושכלליה

¹⁹³ Tg. Esth. II 9:14, and cf. Halperin, Crucifixion, 39.

¹⁹⁴ T. Esth. II 9:7-10.

¹⁹⁵ T. Esth. II 9:14, trans. modified of Grossfeld, The Two Targums, 190.

¹⁹⁶ T-S B 11.52 folio 1v = plate 2. Text and trans. (slightly modified) from R. Kasher and M. L. Klein, New Fragments of Targum to Esther from the Cairo Geniza, HUCA 61 (1990) 89-124, esp. 93 (text), 103 (trans.). Kasher and Klein translate צליבא with "gallows (lit. 'cross')." Cf. also Chapman, Ancient Jewish and Christian Perceptions, 168.

14 מִשְׁחִין בַּת קְלָא צוֹחַת וְאַמְרַת מָה יָאִי וְשִׁפִּיר
 15 לֶךְ הֵן צִלִּין בְּאֵן [בְּלִילָה הֵן הוּא] וְג'
 16 בִּיה בְּלִילָה [נִדְרַת] שְׁנִתְּהוּן דְּנִרְיָא לְמִיעְבֵּד צִלִּיבָא
 17 לְהַמֵּן בִּיה בְּלִילָא נִדְתָּ שֵׁן דְּנִפְ[חִיא] לְמִיעְבֵּד
 18 וְלִמְקַבְ[עָא] סוּכִי בְּצִלִּיבָא ...

The nails are a clear indication that crucifixion is the penalty envisioned and not impalement. This also is the penalty that Haman in Esther Rabbah envisions for Mordecai.¹⁹⁷ Halperin points out that in Tg. I Esth 5:14 “Haman enlists carpenters to make Mordecai’s *šeliba*, smiths to make the nails.”¹⁹⁸ The textual tradition is pointed as “iron knife” (*sakkin defarzel* (סכין דפרזל)), which Halperin argues should be read as *sikkin defarzel* (iron nails).¹⁹⁹

3.16 Isaac

Genesis Rabbah refers to Isaac:

“Abraham took the sticks of the burnt-offering (Gen 22:6)” – like one who carries his cross [or pole for crucifixion] on his shoulder.²⁰⁰

ויקח אברהם את עצי העולה²⁰¹ כזה שטוען צלובו בכתפו

In the text of Genesis, Abraham places the wood on Isaac. Consequently, Genesis Rabbah draws a parallel between Isaac and one about to be crucified. This is similar to the Roman tradition of making some criminals carry the *patibulum* before crucifixion.²⁰² Pesiqta Rabbati has a similar tradition:

And Isaac was carrying wood as a man who carries his cross.²⁰³

ויצחק היה טוען עצים כאדם שטוען את הצלוב שלו

¹⁹⁷ Cf. § 3.8 above.

¹⁹⁸ Halperin, *Crucifixion*, 39. In that text the carpenters (גִּרְאִיָּא) make the cross (צִלִּיבָא) and the smiths (קִינָא) make the iron nails (סכין דפרזל). The expression (סכין דפרזל) is not in MS Paris Heb. 110, upon which Grossfeld based his edition. For the text (i.e., סכין דפרזל etc.), cf. Grossfeld, *The First Targum*, 193 (which he derives from Walton’s London Polyglott Bible). See also *The Bible in Aramaic. Based on Old Manuscripts and Printed Texts*, vol. 4/1, ed. A. Sperber, Brill 1992, 194 (however, Sperber prints דפרזל, iron implements).

¹⁹⁹ Cp. Jastrow, *Dictionary*, s.v. סכא (“thorn, pin, nail”), which he thinks is the correct pointing for “Targ. Esth. V, 14.”

²⁰⁰ Gen. Rab. 56:3, trans. modified of Freedman and Simon, *Midrash Rabbah*, 1.493. The same tradition is in Yalk. Shim. Vayera 91 (58 Warsaw). and Mann, *The Bible as Read and Preached in the Old Synagogue ...*, 2 vols., New York 1940, 1.307 (ש) (from Midrash Yelammedenu, Bereshit § 107 [ק]).

²⁰¹ Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 203 for the textual variation found in MS Vatican 60 [ויצחק על יצחק בני] and he placed on Isaac his son], which appears here.

²⁰² Intro. § 3.1.

²⁰³ Pesiq. Rab. 31. Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 204.

In this tradition הצליב is a synecdoche for the *patibulum* of the Romans, since Roman practice is presupposed.²⁰⁴

3.17 *Exodus Rabbah: Moses*

With regard to Exodus 7:9 (the miracle of the serpent), Exodus Rabbah mentions Ezek 29:3, comparing Pharaoh to a serpent, and then comments:

When Moses departed from Pharaoh, the latter said: "If this son of Amram should again come to me I will slay him, I will crucify him, I will burn him."²⁰⁵

כשהיה משה יוצא מאצל פרעה היה אומר אם יבא אצלי בן עמרם אני הורנו אני צולבו ואני שורפו.

Another text in the same midrash comments on the episode in Exod 32:9 and the description of Israel as a stiff necked people:

R. Jakim said: Three are the undaunted: among beasts, it is the dog; among birds, it is the cock; and among the nations it is Israel. R. Isaac b. Redifa said in the name of R. Ammi: You think that this is said disparagingly, but it is really in their praise; for it means "Either be a Jew or be prepared to be crucified."²⁰⁶

רב יקים נ' חצופים הם חצוף בחיה כלב בעוף תרנגול ובאומות ישראל אמר ר' יצחק בר רדיפא בשם ר' אמי אתה סבור שהוא לגנאי ואינו אלא לשבחן או יהודי או צלוב.

In this text the unfaithful Israelites are apparently threatened with crucifixion.

3.18 *Deuteronomy Rabbah*

In a comment on Deut 2:5 in which God commands Moses not to attack Edom, a tradition in Deuteronomy Rabbah mentions crucifixion:

R. Simlai said they once were attacking him [Edom], and how many were they stretching (forcing to disguise the marks of circumcision)?²⁰⁷ He in the future will stretch some of you. Our rabbis said, how many will they kill? He will kill some of you. How many will they crucify? He will crucify some of you.²⁰⁸

ר' שמלאי אמ' כבר מזדווגין לו וכמה משוכין הוא עתיד למשוך מכם. רבנן אמרי כמה חרוגין הוא עתיד לחרוג מכם כמה צלובין הוא עתיד לצלוב מכם.

²⁰⁴ Intro., § 3.2.

²⁰⁵ Exod. Rab. 9:4, trans of Freedman and Simon, Midrash Rabbah, 3.122-3. Cp. the same tradition in Midr. Tanḥ Yelamdenu, Va'era 3 (Midrash Tanhuma, ed. E. Zondel ben Joseph, Warsaw 1892, 2.32).

²⁰⁶ Exod. Rab. 42:9, trans. modified of Freedman and Simon, Midrash Rabbah, 3.492.

²⁰⁷ This apparently is the interpretation in Liebermann's note (Midrash Debarim Rabbah. Edited for the First Time from the Oxford Ms. No. 147 with an Introduction and Notes, ed. S. Liebermann, Jerusalem ²1964, 20, n. 8).

²⁰⁸ Deut. Rab. 20,6-8 (Liebermann).

In this text the practice of crucifixion is presumably attributed to the Romans (Edomites). Possibly it is a reference to the Hadrianic persecution.

3.19 A Persecution

Midrash Tanhuma depicts a persecution:

Rav Ariste said in the name of R. Berekhyah: Isaiah proclaimed before the Holy One: "Let your dead live, (i.e.,) those who were dishonored {for our sake. One} was crucified. Why? Because he had circumcised his son. And one was burned. Why? Because he had observed the Sabbath. And another was killed Why? Because he had read the Torah."²⁰⁹

אמר רב אריסטי בשם ר' ברכיה ישעיה צווח לפני הקב"ה יחיו מתנבלין
[בשבילנו זה] נצלו למה על שמל את בנו וזה נשרף למה ששימר את השבת וזה נהרג
למה שקרא בתורה

It is unclear which persecution is the intention of the text, but presumably it is Roman. Consequently, crucifixion is the probable reference along with *crematio* (execution by burning), another aggravated punishment in Roman law.

3.20 Midrash Tannaim

On Deut 1:9, there is a tradition of Solomon:

And the wisdom of Solomon was greater than the wisdom of all the children of the east, and he was wiser than every person. Solomon was not able to judge unless he said, "I, I am not like all judges, a king of flesh and blood sitting on the bema (platform), condemning one to decapitation (killing), condemning another to stoning, condemning another to crucifixion."²¹⁰

ותרב חכמת שלמה מחכמת בני קדם ויחכם מכל האדם לא היה יוכל לדון אלא אמר שלמה
אני איני כשאר כל הדיינים מלך בשר ודם יושב על בימה דן להריגה דן לסקילה דן לצליבה

The Roman loanword (*bema*) may imply that the text is describing several Roman penalties (e.g., decapitation [*decollatio*] and crucifixion), although stoning in the Mishnaic sense was not Roman. Some condemned individuals

²⁰⁹ Midr. Tanḥ. Toledoth 19 (Midrasch Tanchuma. Ein agadischer Kommentar zum Pentateuch von Rabbi Tanchuma ben Rabbi Abba, ed. S. Buber, Wilna 1889, 138). Trans. of J. T. Townsend, Midrash Tanḥuma. Translated into English with Introduction Indices and Brief Notes, Hoboken, vol. 1, NJ 1989, 165-66 (he numbers it as 6:19 [Gen 27:28ff]). Townsend amends Buber's "we shall crucify" to "was crucified" (נצל) following Yalqut Shim., Is. § 431 (786 Warsaw) and Agadat Bereshit 44:4 (Agadath Bereschith. Midraschische Auslegungen zum ersten Buche Mosis. Nach den ältesten Druckwerken, in Vergleichung mit einer Oxforder Handschrift cod. 2340 herausgegeben, ed. S. Buber, Cracow 1902, 89 [the tradition is from R. Berekhyah]). Buber's edition of Tanhuma actually puts the words in brackets into the text.

²¹⁰ Midrash Tannaim 1:9 (6 Hoffmann).

in Rome, however, were thrown off the Tarpeian rock. Cicero refers to the penalty as “the rock” or “rocks.”²¹¹

3.21 Redemption from Crucifixion

After a quotation of 1 Sam 2:6 (the Lord brings down to Sheol and raises up, NRSV), Midrash Tehillim includes a parable, commenting on the Korahites, of Ps 45:1 and the rebellion of Korah (Num 16:1-40):

It is like a matron who saw three people going out to be crucified. She redeemed them immediately. After some days she saw them and they had been made bearers [*aquiliferi*] of the imperial standards [*cantabra*]; so the sons of Korah accompanied their father, but when the earth swallowed Korah, his sons who repented were made prophets of lilies (Ps 45:1).²¹²

משל למטרונה אחת שראתה שלשה יוצאין ליצלב, פדתה אותם מיד, לאחר ימים ראתה
[אותם שהם נעשו] אקלפרין מעונין קונטברא של מלך, כך בני קרח הלכו עם אביהם,
בלעה הארץ לקרח, ובניו שעשו תשובה נעשו נביאים שושנים

It is an interesting story not only because of the Latin loanwords (matron, bearers, standards), but because it indicates the possibility of ransom from crucifixion.

4 Crucifixion in the Muslim World

A few remarks on crucifixion in the Islamic world are in order because some writers in the Greek east were probably aware of the practice.²¹³ In Qur’ān 5:33 crucifixion is a possible penalty for brigandage (using the Aramaic loanword *salaba*).²¹⁴ Sean W. Anthony discusses some early instances of crucifixion, and he notes that “incidents of crucifixion in the early Islamic period are legion and are often described in varying terms.”²¹⁵ Joel L. Kraemer gives

²¹¹ Cf. Richardson, *Tarpeia Rupes*, A New Topographical Dictionary, 377-8. Cic. Pis. 42 (*saxa*), Cic. Att. 14.15.1 (*de saxo*), Att. 14.16.2 (*proposita cruce aut saxo*). Cf. Cantarella, I supplizi, 238-62 and Mommsen, *Strafrecht*, 931-4.

²¹² Midr. Ps. 45:5 (270 Buber). Midr. Ps. 45:3 compares the Korahites’ repentance to the growth of a lily. Cf. the similar account in § 3.7 above where the individual is already crucified.

²¹³ See, e.g., Theophilus of Edessa in chapt. 3 § 7.8.

²¹⁴ Cf. O. Spies, *Über die Kreuzigung im Islam*, in: *Religion und Religionen. Festschrift für Gustav Mensching zu seinem 65. Geburtstag*, ed. R. Thomas, Bonn 1967, 143-56, esp. 143-4 for the evidence from the Qur’ān.

²¹⁵ S. W. Anthony, *Crime and Punishment in Early Medina: The Origins of a Maghazi-Tradition*, in: H. Motzki with N. Boekhoff-van der Voort and S. W. Anthony, *Analysing Muslim traditions. Studies in Legal, Exegetical and Maghazi Hadith*, Leiden 2010, 385-465,

examples of the differences in practice of penal suspension in Islamic practice.²¹⁶ One Muslim authority advocates crucifying the convicted criminal for three days and then stabbing him with a spear until he dies. Another advocates crucifying the criminal until his death. Others advocate crucifixion after execution.²¹⁷ An amusing story in the *Anecdotes and Drolleries* of Al-Zamakhsharī (XII C.E.) describes the fate of an unwise astrologer.

An astrologer was crucified; then he was asked before he was crucified, "Have you seen this in your star?" Then he said, "I saw a raising up, however I did not know that it was upon a piece of wood."²¹⁸

صلب منجم، فقبل له قبل أن يصلب: ²¹⁹ هل رأيت هذا في نجمك؟ فقال: رأيت رفعة ولكن لم أعلم أنها فوق خشبة.

The astrologer is crucified in this tale and not executed before he was suspended. It may be a historical anecdote. The phrase "before he was crucified" is lacking in some editions and that clearly indicates that the astrologer was not impaled.²²⁰ There is no mention of any other form of execution so one may assume that this story is of a crucifixion that is similar to Roman practice.

5 Conclusion

There is clear evidence for impalement in ancient Near Eastern and Egyptian texts. There is no indication in the Hebrew Bible of Roman crucifixion. Later reflections on texts such as Deut 21:22-23 in rabbinic tradition linked Scripture with crucifixion although without claiming that Jewish practice was

esp. 406 (some early instances of crucifixion), 435 (on the varied practices of crucifixion), 484 s.v. crucifixion. Cp. chapt. 3 § 7.8.

²¹⁶ J. L. Kraemer, *Apostates, Rebels, and Brigands*, IOS 10 (1980) 34-73, esp. 66-8.

²¹⁷ See Spies, *Über die Kreuzigung im Islam*, 143-56 for a convenient summary of references to crucifixion in Muslim tradition in which some were clearly crucifixions of living individuals.

²¹⁸ M. ben 'Umar Al-Zamakhsharī, *Rabī al-Abrār wa-Fuṣūṣ al-Aḥbār* (Anecdotes and drolleries), vol. 1-2, ed. Ṭ. F. Al-Sayyid, Lebanon 2006, 1.39 (٣٩). I thank Professor Gordon Newby for helping me locate this text and for checking the transcription, and I am indebted to Mr. Christopher L. Horton-Cook for checking the translation.

²¹⁹ There is a typographical error in the printed text: يصاب.

²²⁰ This is the characterization of the *Fuṣūṣ al-Aḥbār* in A. J. Lane, *A Traditional Mu'tazilite Qur'ān Commentary*. The *Kashhāf* of Jār Allāh Al-Zamakhsharī (D. 538/1144), Leiden 2006, 385-6. The phrase "before he was crucified" is, e.g., missing in the version published in Beirut in 1991/2 that is available online at <http://sh.rewayat2.com/adab/Web/10668/001.htm> (last accessed 26 Jan. 2014). Neither edition is critical.

identical with that of the Romans.²²¹ Some texts in the Septuagint likely refer to crucifixions.²²² The Qumran texts probably contain some references to crucifixion, but one cannot conclude that the sect practiced crucifixion. David Chapman notes that it is unclear what 4QpNah's attitude toward Alexander Jannaeus's crucifixion of fellow Jews was.²²³ It may have been negative. The author of the Temple Scroll apparently advocates crucifixion for certain crimes. The clearest images of crucifixion emerge in the rabbinic literature, although there is little justification for claiming that such a penalty was used in rabbinic practice.²²⁴ Simeon ben Shetaḥ's execution of the witches may have been by crucifixion, however. There may be a connection between the crucifixion of Haman in the Targums and the Christian traditions concerning Purim (cf. chapt. 3 § 10.3). The clearest evidence in rabbinic texts (i.e., Hebrew and Aramaic) are the references to Roman crucifixion. It is probable that many of the texts in rabbinic literature (such as the midrashim) that mention crucifixion or more generally penal suspension reflect the imperium's frequent use of that form of execution – even though much of the rabbinic material was written long after Constantine abolished crucifixion. תלה (*tlh*) probably means “crucify” in two texts from Qumran. In the case of צלב (*ṣlb*) there are a number of additional semantic hints in certain texts that indicate the verb means “crucify.”

²²¹ D. Chapman, Crucifixion II. Judaism, EBR V (2012) 1088 refers to t San. 9:7 and b San. 46b.

²²² Cf. chapt. 3 § 1.8.

²²³ Chapman, Crucifixion II. Judaism, 1088 (and cf. the convenient summary of the issue there).

²²⁴ Targum Ruth 1.17 is a problematic text. See § 3.1 above.

Chapter Five

Crucifixion: Law, and Historical Development

1 Law and Crucifixion

1.1 The Use of Crucifixion

The survey in the foregoing chapters illustrates the diverse practice of crucifixion in Greco-Roman society. It is the basic *servile supplicium* (slave punishment).¹ This usage dates to Republican times. From Verres' perspective, he was justified in crucifying Gavius because he was a *speculator fugitorum* (a spy for rebellious slaves).² Aubert believes Verres' behavior may not have been as "outrageous" as Cicero thought, because in later military law, traitors and deserters are no longer soldiers, but public enemies:

Traitors and deserters to the enemy generally suffer capital punishment, and after being discharged are tortured; for they are counted as public enemies, not as soldiers.

*Proditores transfugae plerumque capite puniuntur et exauctorati torquentur: nam pro hoste, non pro milite habentur.*³

¹ Cf. Mommsen, *Strafrecht*, 919, Aubert, *Double Standard*, 113-4, Kuhn, *Kreuzesstrafe*, 719-20. Cf., in particular, Liv. 24.14.7 *qui loco cessisset, in eum servili supplicio animadversurum* (chapt. 2 § 2.1.2), Cic. Ver. 2.5.12 *servos ... ad supplicium iam more maiorum traditos ... liberare ausus es ... damnatis crucem servis fixeras ...* (see chapt. 1 § 1.6), Ver. 2.5.169 *crux ... servitutis extremo summoque supplicio* (the cross ... the extreme and ultimate penalty of servitude), V. Max. 2.7.12 *hos enim tamquam patriae fugitivos crucibus adfixit ... Romano sanguini quamvis merito perpesso servile supplicium insultare non adinet* (chapt. 2 § 2.1.4), Tac. Hist. 2.72.2 *fugitivus nomine Geta, sumptum de eo supplicium in servilem modum* (chapt. 2 § 3.7), 4.11.3 *Asiaticus [is enim libertus] malam potentiam servili supplicio expiavit* (chapt. 2 § 3.8.2), SHA Avidius Cassius 4.6 (Vulcacius Gallicanus) *rapi eos iussit et in crucem tolli servilique supplicio adfici, quod exemplum non extabat* (chapt. 2 § 3.16.2), SHA Macrinus 12.2 (Julius Capitolinus) *nam et in crucem milites tulit et servilibus suppliciis semper adfecit* (chapt. 2 § 3.20), Aurelius Victor Caes. 41.11-12 *Quo excruciato, ut fas erat, servili aut latronum more* (§ 1.10.6 below). The numerous accounts of the crucifixion of slaves warrant this interpretation of *servile supplicium* (cf. index s.v. slave).

² Cic. Ver. 2.5.161. Cf. chapt. 1 § 1.6 above. Aubert, *Double Standard*, 119.

³ Tarruntenus Paternus (II C.E.) 2 *De re militari* in Dig. 49.16.7. Cp. Marcianus 14 Inst. in Dig. 48.8.3.6 *Transfugas licet, ubicumque inventi fuerint, quasi hostes interficere* (It is lawful to kill deserters to the enemy, wherever they are met with, as though they were enemies [Digest 4.334]).

Cicero's letter to Quintus (Q. fr. 1.2.6 in chapt. 1 § 1.6) possibly indicates that citizens (a knight in this case) could be subjected to crucifixion and another citizen to burning. This is true even if Quintus never carried the punishments out, and his expression may have only been a joke or threat. The *lex Puteolana*, to be discussed below, illustrates the use of the penalty in the Augustan or perhaps the Julio-Claudian era. During the early principate crucifixion continued to be used against slaves, *liberti* (freed persons), and *peregrini* (non-citizens), and occasionally citizens were crucified.⁴

1.2 The Question of the *Summa Supplicia* (Extreme Penalties)

In Cicero *summum supplicium* (extreme penalty) seems to be crucifixion in a text describing the punishment the owner of a farm will inflict upon a *vilicus* (steward, manager) who steals from the owner.⁵ He compares Verres' behavior to that of the steward and argues that Verres himself deserves the *summum supplicium*. Cicero identifies crucifixion as an extreme penalty (*summo supplicio*) in his oration against Verres.⁶ Verres picked the spot on the Pompeian road to crucify Gavius, so that

... Italy might see her son, as he hung [was fixed] there, suffer the worst extreme of the tortures [the extreme penalty] inflicted upon slaves.

... *Italia autem alumnum suum servitutis extremo summoque supplicio adfixum videret.*⁷

⁴ Cf. chapt. 2 § 4.

⁵ Cic. Ver. 2.3.119 *summo supplicio vilicum adficiat* (punish the *vilicus* with the extreme penalty). Stewards were either slaves or freedmen. Cf. E. dal Lago and C. Katsari, *Slave Systems. Ancient and Modern*, Cambridge, UK 2008, 210-1.

⁶ Cic. Ver. 2.5.168 (cf. § 1.3 below). In 2.5.165 he calls it a *crudelissimam taeterrimumque supplicium* (cruel and terrifying penalty). Cf. Zestermann, *Die Kreuzigung*, 355. In his arguments against the Catiline conspirators (Catil. 1.27), Cicero, in a rhetorical question, asks if Catiline, leader of an attempted sedition, did not deserve to be led away in bonds and put to death with the extreme penalty (*non summo supplicio mactari imperabis?*). As leader of a revolt Catiline lost the rights of a citizen (never in this city did individuals who revolted against the republic retain their rights as citizens *At numquam in hac urbe qui a re publica defecerunt civium iura tenuerunt*). Cf. Aubert, *A Double Standard*, 113, on crucifixion as separation from the community. Catiline had become a public enemy (*hostis* 1.27). Cicero himself had the five Catiline conspirators let down into the *Tullianum* prison, and the executioners strangled them all with a noose (Sal. Cat. 55.2-6 *laqueo gulam fregere*, broke his neck with a noose). Cf. Bauman, *Crime and Punishment*, 45-8. Servius (A. 6.573 [II 80 Thilo/Hagen]) describes the eternal punishments of the guilty in Hades as in accord with ancient law: *nam post habitam quaestionem in Tullianum ad ultimum supplicium mittebantur* (after the inquiry has been adjudicated they were cast into the Tullianum for the supreme penalty). On the Tullianum, cf. J. Le Gall, *Notes sur les prison de Rome à l'époque républicaine*, MAH 56 (1939) 60-80.

⁷ Cic. Ver. 2.5.169. Trans. of Cicero, *The Verrine Orations*, vol. 2, LCL, ed. and trans. L.H.G. Greenwood, Cambridge, MA/London 1935, 655. Cic. N.D. 3.81 (*Summo cruciatus supplicioque*; the execution of Quintus Varius) is not a use of the term for crucifixion. The

Clearly Cicero has crucifixion in mind in this use of *summum supplicium*. An interesting text of Tacitus depicts a motion of Haterius Agrippa to execute the knight Clutorius Priscus on a charge of *maiestas* (high treason) with the *ultimum supplicium* (extreme penalty).⁸ A senator, Manius Lepidus, in his defense of Clutorius, argues that if one regarded the words only then “neither the prison, nor the garrote, nor even the servile tortures would be adequate for him” (*neque carcer neque laqueus, ne serviles quidem cruciatus in eum suffererint*).⁹ The servile torments were probably various forms of torture and finally crucifixion. Henry Furneaux believes that the case was not strictly within the definition of *maiestas*.¹⁰

Garnsey argues that there is no formal definition of *summum supplicium* in Roman legal sources, although they do permit the identification of the concept’s reference: “crucifixion, burning alive, and perhaps condemnation to the beasts ... aggravated forms of the death penalty.”¹¹ It may not be possible to define a precise difference between the meaning of *ultimum supplicium*

plural (*summa supplicia*) in ad Brut. 1.12.1 also is more general. Cf. Sal. Cat. 51.39 (where Caesar distinguishes the *summum supplicium* from *verbera*, flogging in ancient Roman usage). In Tac. Ann. 6.3.4 (*summum supplicium*) the manner of death is not specified either. In Liv. 9.16.18 *ultimum supplicium* is the axe. Cp. Liv 21.41.11 (*ultimum supplicium* is starvation). In Flor. Epit. 1.18 (*olim* 2.2.25) the *ultimum supplicium* is either the *carcer* (the Tullianum prison) or crucifixion.

⁸ Tac. Ann. 3.49.2. He had composed a eulogy of the emperor’s son Drusus before the latter’s death.

⁹ Tac. Ann. 3.50.1. The prison is the *Tullianum*.

¹⁰ Cornelii Tacitis Annalium ... vol. I. Books I–VI, ed. H. Furneaux, Oxford ²1896, 451 (with ref. to PS 5.29.1 and the original sentence of exile, among other texts).

¹¹ Garnsey, *Social Status*, 123–4 (with references to the variation of meaning for *supplicium*, which can mean penalty or death in legal sources). U. Brasiello believes it could only mean “torture” (*La repressione penale in diritto romano*, Naples 1937, 256). Garnsey (*Social Status*, 123) shows that this sense is doubtful. Pomponius 22 Ad Sabinum in Dig. 12.4.15 (a prefect of the night watch who punished a slave with the extreme penalty for theft – presumably crucifixion [*praefectus uigilum eum summo supplicio adfecit*]); Paulus 5 Sent. in Dig. 47.11.1.2 (those who seduce boys or girls and complete the offense suffer capital punishment and “corrupt attendants undergo the supreme penalty” [*corrupti comites summo supplicio adficiuntur* trans. of Digest 4.298]); PS 5 in Dig. 47.12.11 (with regard to tomb violators: if they remove the bodies or scatter the bones, will suffer the supreme penalty if they be of the lower orders; if they be more reputable, they are deported to an island [*humilior<i>s quidem fortunae summo supplicio adficiuntur, honestiores in insulam deportantur* Digest 4.301]); Ulpian in Dig. 48.10.8 (quoted below: freemen who adulterate coins are thrown to wild animals, slaves are punished with the extreme penalty); Callistratus in Dig. 48.19.28.pr. (quoted in § 1.5 below, the term includes four different punishments); Callistratus 6 De cogn. in Dig. 48.19.28.14 (individuals who escaped from the mines were subject to the extreme penalty [*qui in metallum damnati id admiserint, summo supplicio adficerentur*]); Paulus 5 Sent. in Dig. 48.19.38.5 if a person kills another while giving them an abortifacient or aphrodisiac then they are punished with the extreme penalty (*summo supplicio*).

(extreme penalty) and *summum supplicium* either.¹² Uses of *ultimum supplicium* in the *Digest* do not define the specific form of “extreme punishment,” although in the case of slaves when no other penalty is specified the natural interpretation is that the jurist intends crucifixion to be the reference, since it was such a common fate for slaves. Such a conclusion (i.e., crucifixion) cannot be assumed in the case of citizens.¹³ *Summum supplicium* is set over against simple execution (*capite puniri*) in an edict and rescript of Hadrian.¹⁴ Simple execution was ordinarily beheading (*decollatio*).¹⁵ Ulpian writes in his *On the Duty of the Proconsul*, that one’s life is taken away if that person is condemned to die by the sword (but the governor may not use an

¹² R. Riling, *Humiores – Honestiores*. Zu einer sozialen Dichotomie im Strafrecht der römischen Kaiserzeit, Munich 1988, 187 refers to Liebs’s opinion that *ultimum supplicium* was simply the death penalty and *summum supplicium* the highest penalty that in the third century was crucifixion and in the late fourth century burning (D. Liebs, *Unverhohlene Brutalität in den Gesetzen der ersten christlichen Kaiser*, in: *Römisches Recht in der europäischen Tradition*, ed. O. Behrends, M. Diesselhorst, and W. E. Voß, Ebelsbach 1985, 89–116, esp. 90). Garnsey, *Social Status*, 122–3, argues that Celsus 37 Dig. in Dig. 48.19.21 (*Ultimum supplicium esse mortem solam interpretamur*. Death is the only meaning we have for the extreme penalty, Digest 4.364) does not prove that *ultimum supplicium* means “death simple” since Celsus might have been thinking of one particular form of the death penalty, as opposed to another. There are many examples in which both *ultimum supplicium* and *summum supplicium* are applied to slaves (e.g., Ulpian in Dig. 29.5.1.28 from Hadrian’s reign) and free born people (Ulpian in Dig. 1.5.18 from Hadrian’s time).

¹³ Cf. Ulpian 27 ad Sabinum, in Dig. 1.5.18 (a rescript of Hadrian concerning a pregnant woman condemned to death [*praegnas ultimo supplicio damnata est*]); Ulpian 50 Ad edictum in Dig. 29.5.1.28 (a rescript of Hadrian stating that a slave girl should suffer the extreme penalty if she did not risk her life for her mistress who was in danger of being murdered [*ultimum itaque supplicium pati debet*]); Papianus 36 Quaest. in Dig. 48.5.39(38).8 (a rescript of Antoninus Pius concerning a husband who kills his wife caught in adultery: “it is possible to remit the aggravated death penalty ...” [*ultimum supplicium remitti potest* Digest 4.328]); Marcianus 14 Inst. in Dig. 48.6.5.2 (anyone guilty of raping a single or married woman suffers the extreme penalty [*ultimo supplicio punitur*]); Ulpian, *De officio procons.* 7 in Dig. 48.8.4.2 (slaves guilty of castrating others are punished with the extreme penalty [*ultimo supplicio animaduertendum esse*]); Modestinus 12 Pandect. in Dig. 48.9.9.1 (those who kill persons other than family members suffer capital punishment or the extreme penalty [*capitis poena plectentur aut ultimo supplicio mactantur*]); Marcianus 14 Inst. in Dig. 48.10.1.13 (a slave guilty of forgery is punished with the extreme penalty [*ultimo supplicio adfici iubetur*]); Gaius 1 lex Julia et Papia in Dig. 48.19.29 (Those condemned to the extreme penalty immediately lose their citizenship and their freedom [*Qui ultimo supplicio damnantur, statim et ciuitatem et libertatem perdunt* Digest 4.366]). Gaius mentions condemnation to beasts as an example of the penalty.

¹⁴ Cf. the edict and rescript in Callistratus 6 De cogn. in Dig. 48.19.28.13–4. For *poena capitis*, cf. PS 5.23.1 = Coll. 8.4.1–2 (*Iurisprudentiae anteiustinianae reliquias* vol. 2/2, ed. B. Kübler, BiTeu, Leipzig 1927, 359). Modestinus 4 De poenis in Dig. 49.16.3.10–11 (deserters are tortured and condemned to the wild animals or the cross; those intending to desert are punished capitally [*capite punitur*]). Cf. § 1.5 below.

¹⁵ On *decollatio*, cf. Mommsen, *Strafrecht*, 923–5.

axe, spear, club or garrote or any other method).¹⁶ A rescript of Hadrian to the council of Baetica specified the sword for cattle rustlers (*abigei*): *ideoque puto apud uos quoque sufficere genus poenae, quod maximum huic maleficio inrogari solet, ut ad gladium abigei dentur* (therefore I judge that this kind of punishment should be the highest imposed among you, namely that cattle thieves be sentenced to the sword). But if someone is notorious and troublesome in cattle rustling and has already been punished for the offence, then he is sent to the mines (*aut si quis tam notus et tam grauis in abigendo fuit, ut prius ex hoc crimine aliqua poena affectus sit, hunc in metallum dari oportere*).¹⁷

One form of the supreme penalty according to a text in Callistratus is crucifixion.¹⁸ Callistratus, however, includes beheading in his list.¹⁹ Ulpian, in a discussion of those who adulterate coins, holds that “if they are free born individuals they should be thrown to the beasts, if slaves, sentenced to the extreme penalty” (*si quidem liberi sunt, ad bestias dari, si serui, summo supplicio adfici debent*). Presumably Ulpian means crucifixion, given the context. Crucifixion is the *servile supplicium* in Roman authors.²⁰ The *Pauli Sententiae*,²¹ in its list of the extreme penalties, includes crucifixion, burning, and beheading in the compilation.²² Ugo Brasiello’s conclusion is that at this point in the post-classical era, the distinction between the *poena capitis* (capital penalty) and the *summa supplicia* (extreme penalties) disappeared.²³

1.3 Differential Application of Punishments: Crucifixion and the Citizen

The foregoing chapters normally indicate that there was a distinction between the punishments suffered by citizens and slaves, and those of higher rank suffered less severe penalties than those of lower rank.²⁴ Janne Pölönen, for ex-

¹⁶ Ulpian 9 De officio procon. in Dig. 48.19.8.1 *Vita adimitur, ut puta si damnatur aliquis, ut gladio in eum animadvertatur. Sed animadverti gladio oportet, non securi vel telo vel fusti vel laqueo vel quo alio modo.*

¹⁷ Cf. Ulpian 8 De officio procon. in Coll. 11.7.2 (369 Kübler). In 11.7.3 Ulpian speculates that Hadrian’s expression *gladii poenam* could mean condemnation to the gladiatorial games (*ludi damnationem*).

¹⁸ Dig. 48.19.28.pr. quoted below (§ 1.5).

¹⁹ Dig. 48.19.28.pr. quoted below.

²⁰ Ulpian 7 De offic. procons. in Dig. 48.10.8. Cf. Aubert, Double Standard, 110 and § 1 above. PS 5.25.1 specifies crucifixion or the mines for forgers from the lower orders.

²¹ I will drop the unnecessary reference to “Pseudo” in the text and footnotes below and use the siglum PS for *Pauli Sententiae*.

²² Cf. PS 5.17.2 quoted below (§ 1.7) and Garnsey, Social Status, 124 (who notes that Paulus’s use of the plural may point to a non-technical use of the term).

²³ Brasiello, La repressione penale, 267. Kuhn, Die Kreuzesstrafe, 745-9 concludes that *summa supplicium* means the death penalty in general.

²⁴ Aubert, Double Standard, 102: “Penalties were meted out according to the convicted criminal’s legal status and social standing, usually defined by his or her *status libertatis* and

ample, has written that “... the principle of status differentiation in punishment is pre-Severan in origin, although it was not systematically expressed in terms of *humiliores-honestiores* [lower ranks – upper ranks] dichotomy.”²⁵ The origin of the two terms, nevertheless, probably goes back to the first century.²⁶ Ulpian affirms that decurions (members of town councils) cannot be sentenced to the mines, crucifixion, or burning.²⁷ Callistratus refers to an edict of Hadrian in which some individuals who are relegated (banished) to an island but who escape suffer “capital punishment” (*capite puniatur*). Those condemned to the mines who escape suffer the “extreme penalty” (*summo supplicio*).²⁸ After a description of the crucifixion of brigands he continues:

Our ancestors, whatever the punishment, penalized slaves more severely than free persons, and notorious persons more than those of unblemished reputation.

*Maiores nostri in omni supplicio seuerius seruos quam liberos, famosos quam integrae famae homines punierunt.*²⁹

There is little doubt that in the second century and probably in the first there were different punishments meted out to individuals according to their legal

status civitatis during the republican period and by the dichotomy *honestiores* versus *humiliores* during the Principate.” The last two categories apply to social class. Rilinger, *Humiliores*, *passim* has argued well that PS does not prove that the categories of *honestiores* and *humiliores* were established as two classes that divided society in the Severan era (cf. *ibid.*, 67 where he lists occurrences of the pair of terms [predominantly in the PS]). That may be true, but the language clearly appear in texts before the end of the third century. Cf. M. Bre-tone, *Fra storia sociale e storia giuridica*, RJ 8 (1989) 35–51 for much criticism of Rilinger’s thesis (see, e.g., 39–43 for discussion of the presence in earlier texts from the *Digest* of the two terms). A single usage of one of the two terms often implies the other member of the pair. The terms define the *dignitas* or *qualitas* of a person (*ibid.*, 40). Examples include: Ulpian in Dig. 47.11.6.pr. (*humiliores*), Coll. 11.8.3 ([370 Kübler] *honestiore loco nati; honestiore* dismissed prejudicially by Rilinger [*ibid.*, 256–7] in Bre-tone’s view), Dig. 48.13.7 (*Sacrilegii poenam debebit proconsul pro qualitate personae proque rei condicione et temporis et aetatis et sexus vel seuerius vel clementius statuere ... si honestiore loco natus sit ...* [The proconsul ought to impose the penalty for sacrilege more or less severely, depending on the status, age, and sex of the person, the nature of the property, and the time. ... if he was born in a higher position ..., Digest 4.346]), Callistratus in Dig. 48.19.28.2 (*tenuiores homines ... honestiores* [poorer and higher classes]), 48.19.28.5 (*decuriones*), 48.9.28.11 (*plebei et humiles personae* [plebeians and persons of low rank, Digest 4.366]), 50.2.12 (*viles personas ... decurionatum* [base persons ... decurionate, Digest 4.424]), and Marcianus in Dig. 48.8.3.5 (*honestiore loco* which survives the excision as an interpolation of *humiliores ... ad insulam* at the end of the text, pace Rilinger [*ibid.*, 42, 46–51, 202–5]).

²⁵ J. Pöhlönen, *Plebeians and Repression of Crime in the Roman Empire: From Torture of Convicts to Torture of Suspects*, RIDA 51 (2004) 217–257, esp. 218.

²⁶ Bre-tone, *Fra storia sociale*, 42.

²⁷ Ulpian 10 De officio procon. in Dig. 48.19.9.11 quoted below in § 1.5. Bre-tone, *Fra storia sociale*, 41 notes that Rilinger misses this text.

²⁸ Callistratus 6 De cognitionibus in Dig. 48.19.28.13–4.

²⁹ Callistratus 6 De cognitionibus in Dig. 48.19.28.16.

status and social rank. During the imperium criminal law gradually became less equal for all. Aubert comments,

One disturbing aspect of this development was what is commonly regarded as the increasing assimilation of lower-class citizens and provincials with slaves within the category of *humiliores*. Again, modern scholars seem to agree on the fact that cruel punishments, such as the so-called *summa supplicia*, were applied indiscriminately to all *humiliores*, whether free or slaves, *peregrini* or citizens.³⁰

Arnobius, writing shortly before the reign of Constantine, is also a witness to this perspective in the following objection of a pagan:

But he said, the gods are not inimical towards you because you worship the omnipotent god, but because you worship a man who was born and who perished by the punishment of the cross that is notorious for the lowest persons [i.e., common people]

*Sed non, inquit, idcirco dii vobis infesti sunt, quod omnipotentem colatis deum, sed quod hominem natum et, quod personis infame est vilibus, crucis supplicio interemptum ...*³¹

According to the surviving evidence, however, citizens in the late Republic and early Principate were not normally subjected to the penalty of crucifixion, although *liberti* (freed people) were occasionally crucified.³² Cicero's position is well known: Publius Gavius, as a Roman citizen, should not have been crucified if he could prove his Roman citizenship through the testimony of the equestrian, Lucius Raecius (who was in Panhormus). Cicero's assumption is that if Lucius Raecius had identified Gavius as a Roman citizen that Verres would then have lessened the ultimate penalty (*cognosceret hominem, aliquid de summo supplicio remitteres*).³³ Gavius's appeal to his *status civitatis* (*cum imploraret saepius usurparetque nomen civitatis*) while being beaten with rods did not prevent Verres from preparing a cross for him.³⁴ Cicero seems to assume that Verres was within his rights to put Gavius to death as a suspected spy for the rebellious slaves in Sicily.³⁵ Verres may have crucified other Ro-

³⁰ Aubert, A Double Standard, 104. Cp. Macer (III C.E.) 2 De publicis iudiciis in Dig. 48.19.10.pr. *In servorum person ita observatur, ut exemplo humiliorum puniantur* (In the case of slaves, the rule is observed that they are punished after the fashion of men of low rank, Digest 4.362) and Callistratus 6 De cognitionibus in Dig. 48.19.28.11 *Igni cremantur plerumque servi, qui salutem dominorum suorum insidiaverint, nonnumquam etiam liberi plebei et humiles personae* (Slaves who have conspired against the wellbeing of their masters are generally burned in the fire, as sometimes also are free plebeians and persons of low rank, Digest 4.366).

³¹ Arn. Nat. 1.36. For use of *persona vilis* in law, cf. Ulpian 57 Ad edict. in Dig. 47.10.17.13.

³² Cf. chapt. 2 § 3.6 (a guardian) and the *liberti* (Ida in § 3.8.2 and Asiaticus in § 3.8.2).

³³ Cic. Ver. 2.5.168. Cicero concedes that Verres was free to crucify Roman citizens who could not prove their status. See chapt. 1 § 1.6.

³⁴ Cic. Ver. 2.5.162.

³⁵ Cic. Ver. 2.5.161. That is, if the charge were true, and if Gavius could not prove his status. Cf. § 1.1 above.

man citizens unless Cicero's expressions are rhetorical exaggerations.³⁶ What is missing in the second Verrine oration is a clear statement that there was a law against crucifying citizens. Cicero's assumption seems to be that it is against the custom of the ancestors (*mos maiorum*) to crucify citizens.³⁷ In his defense of Gaius Rabirius for *perduellio*, Cicero intentionally confuses the *arbor infelix* (death by scourging while being suspended from a tree) with crucifixion.³⁸ With regard to crucifixion, however, he insists that the citizen should not have to face such a penalty:

For it is not only the actual occurrence of these things or the endurance of them, but liability to them, the expectation, nay, the mere mention of them, that is unworthy of a Roman citizen and a free man.

*harum enim omnium rerum non solum eventus atque perpressio, sed etiam condicio, expectatio, mentio ipsa denique indigna cive Romano atque homine libero est.*³⁹

Again what is missing in the text is an explicit claim that there was a specific Roman law against citizens suffering the penalty of crucifixion.

When Galba crucified a guardian for poisoning his ward, the guardian invoked the laws and his Roman citizenship (*implorantique leges et ciuem Romanum se testificant*), to no avail. The context is important, because Suetonius does not accuse Galba of illegal activity, but characterizes him instead as overly harsh in his punishments during the first years of his governorship,

For eight years he governed the province in a variable and inconsistent manner. At first he was vigorous and energetic and even overly severe in punishing offences;

*Per octo annos uarie et inaequaliter prouinciam rexit, primo acer et uehemens et in coercendis quidem delictis uel immodicus.*⁴⁰

Apparently the laws in the text refer to the citizen's rights of appeal or perhaps the usual practice of crucifying slaves and *peregrini* (non-citizens).⁴¹ Garnsey casts some needed light on the event:

Suetonius is high-lighting the *cruelty* of Galba rather than the illegality of his behaviour. There was no illegality. No law excluded a citizen from crucifixion. Galba was simply

³⁶ Cicero, Ver. 2.1.7, 2.1.9, 2.3.6. Cf. chapt. 1 § 1.6.

³⁷ On ancient custom as a source for law, see Cic. Leg. 2.23, Off. 1.75, and Cook, Roman Attitudes, 89-92. There is debate whether a "customary law" existed, but there were nevertheless "legal customs." Cf. A. A. Schiller, Roman Law: Mechanisms of Development, The Hague/New York 1978, 253-68, 560-9.

³⁸ Cic. Rab. Perd. 13 and see chapt. 1 § 1.6. Mommsen, Strafrecht, 918-20 himself confuses the issue by conflating the two penalties, one of which was execution by scourging and the other execution by crucifixion. Cf. also Hengel, Crucifixion, 39 and intro. § 3.7.

³⁹ Cic. Rab. Perd. 16, trans. of Hodge, Cicero, 467-9. See chapt. 1 § 1.6.

⁴⁰ Suetonius, Galba 9.1. Trans. of Rolfe, Suetonius, 2.195.

⁴¹ Garnsey, Social Status, 127, idem, The Lex Julia and Appeal under the Empire, 175-6. Castagnetti, Le *leges libitinae* flegree, 65 thinks Galba removed the guardian's protections as a Roman citizen because of the infamous nature of the crime.

using a penalty customarily reserved for aliens or slaves and the most despicable criminals. There are too many unknowns in the case. It could be that the man thought he was innocent and was appealing on those grounds to the emperor. Suetonius seems to regard the man as guilty – or he implies nothing to the contrary. If this is the truth of the matter, appeal against the sentence is less probable than a protest directed against a *servile supplicium*.⁴²

Most likely the laws the guardian referred to were the *lex Valeria de provocatione*, the *lex Porcia*, or the *lex Iulia de vi publica et privata*. Those laws provided citizens, among other things, with protection from summary capital punishment by a magistrate by conferring the right of appeal (*provocatio*).⁴³ The *lex Valeria* of 449 B.C.E., for example, forbade a magistrate to put to death or scourge a Roman citizen if an appeal was made to the people (... *ne quis magistratus ciuem Romanum aduersus prouocationem necaret neue uerberaret*).⁴⁴ Cicero refers to the *lex Porcia* in his defense of Rabirius and notes that it forbids the scourging and execution of citizens (*de ciuibus Romanis contra legem Porciam uerberatis aut necatis plura dicenda sunt*).⁴⁵ He continues later in the speech,

⁴² Garnsey, *Lex Iulia*, 175-6.

⁴³ Cf. G. Rotondi, *Leges publicae populi romani*, Milan 1912, *lex Valeria*: 190 (P. Valerius Poplicola's law of 509), 204 (L. Valerius Poplicola and M. Horatius Barbatus's law of 449), 235-6 (M. Valerius Corvus's law of 300), 268-9 *leges Porciae de provocatione* (or) *de tergo civium* (195 BCE?), *lex Iulia* (or *leges Iuliae*) *de vi publica et privata*: 450-1 (17 BCE?) and A. Berger, *Encyclopedic Dictionary of Roman Law*, TAPA N.S. 43, Philadelphia 1953, s.v. (with his refs. to PRE). Magdelain, *Ius*, 274, 333 believes the law of 449 is apocryphal and dates the *lex Valeria de provocatione* to 300. It is possible that he misreads Liv. 3.55.5 (*novam legem, ne quis ullum magistratum sine provocatione crearet*), which he interprets to mean the prohibition of the existence of magistrates who are subject to the right of *provocatio*. For the opposite (i.e., that magistrates could not exist who were not subject to the right of appeal) and a more natural reading, cf. L. Garofalo, *Alcuni appunti di Giuseppe Branca sulle «convenzioni costituzionali» nell' antica Roma*, in: *Piccoli scritti di diritto penale romano*, Padova 2008, 29-60, esp. 50.

⁴⁴ Cic. Rep. 2.31.

⁴⁵ Cic. Rab. Perd. 8. Sal. Catil. 51.21-22, 39-40 is evidence that the *lex Porcia* forbade the scourging [presumably before condemnation] of citizens. It and other laws allowed exile as an alternative penalty for citizens. Sallust's text does not prove that the execution of a citizen was absolutely forbidden. [Sal.] Cic. 5 is a charge that Cicero had annulled the *lex Porcia*, abolished the freedom of all and had taken for himself alone the power of life and death (*tu sublata lege Porcia, erepta libertate omnium nostrum vitae necisque potestatem ad te unum revocaveras*). Drummond, *Law, Politics, and Power*, 30 notes that in the first century B.C.E. the *lex Porcia* might have been perceived as an absolute prohibition on flogging "... and even if the law specified flogging *adversus provocationem* and of necessity applied principally to its use as a coercive penalty, those qualifications were probably largely ignored: indeed, Festus (266L[indsay]) was even to allege (mistakenly) that flogging was widely employed as a statutory penalty, and in the past it had certainly often accompanied execution, the situation Caesar envisages in this passage [i.e., Sal. Catil. 51.21-2]." Drummond also argues that Cic. Rep. 2.54 and Liv. 10.9.4 (respectively) show that all three or at least one of

The law of Porcius forbade the rod to be used on the person of any Roman citizen: this merciful man has reintroduced the scourge. The law of Porcius wrested the liberty of the citizens from the lictor: Labienus, the friend of the people, has handed it over to the executioner. Gaius Gracchus⁴⁶ carried a law forbidding sentence to be passed on the life of a Roman citizen without your consent: this friend of the people has illegally secured without your consent, not indeed that the Duumvirs should put a Roman citizen on trial, but actually that they should condemn him to death without his case being heard. Do you really dare to talk to me of the law of Porcius or of Gaius Gracchus or of any other friend of the people, after having attempted, not merely by the use of unwonted punishments but by the unparalleled cruelty of your language, to violate the liberty of this people, to put their clemency to the test, to alter their traditions?

*Porcia lex virgas ab omnium civium Romanorum corpore amovit, hic misericors flagella rettulit; Porcia lex libertatem civium lictori eripuit, Labienus, homo popularis, carnifici tradidit; C. Gracchus legem tulit, ne de capite civium Romanorum iniussu vestro iudicaretur, hic popularis a duumviris iniussu vestro non iudicari de cive Romano, sed indicta causa civem Romanum capitis condemnari coegit. tu mihi etiam legis Porciae, tu C. Gracchi, tu horum libertatis, tu cuiusquam denique hominis popularis mentionem facis, qui non modo supplicii invisitatis sed etiam verborum crudelitate inaudita violare libertatem huius populi, temptare mansuetudinem, commutare disciplinam conatus es?*⁴⁷

Cicero uses the *lex Porcia* to protest the unusual penalty proposed for Rabirius (the *arbor infelix*, which he misleadingly portrays as crucifixion), but does not say that it is “illegal.” The *lex Porcia* was a law that guaranteed a Roman citizen the right of appeal (*provocatio*), so the implication of the passage is that Labienus was misusing his power as a magistrate. The crucial phrase is *iniussu vestro non iudicari de cive Romano* ([a statute] forbidding sentence to be passed on the life of a Roman citizen without your consent), which is a guarantee of the right of appeal.⁴⁸

The *lex Iulia de vi publica et privata* could also have been relevant in the case of the guardian.

Anyone who possesses authority [i.e., office] is condemned by the Julian law on public violence if they put to death, sentence to death, torture, scourge, condemn [lacuna] or sentence to be placed in public chains a Roman citizen who formerly appealed to the people, but now appeals to the imperator.

the Porcian laws were “*provocatio* laws.” The text of Livy insists that the penalty imposed on the magistrate who ignored the law by scourging and putting to death a Roman citizen was severe, whereas the *lex Valeria* of Marcus Valerius only provided that a magistrate who disregarded the appeal of a citizen condemned to scourging and death would only be deemed to “have acted wrongfully” (10.4.5 *improbe factum*).

⁴⁶ This is the *lex Sempronia de capite civis*.

⁴⁷ Cic. Rab. Perd. 12-13, trans. of Hodge, Cicero, 453.

⁴⁸ On the *lex Sempronia de capite civis Romani* (Gaius Gracchus, 123 B.C.E.), cf. Rottendi, *Leges publicae*, 309-10, B. Santalucia, *Studi di diritto penale romano*, Rome 1994, 183-4. It also guaranteed the right of *provocatio*. Cic. Catil. 4.11 notes that for Caesar the Sempronian law protected citizens, but not an individual such as a Catilinarian who was a public enemy (*rei publicae ... hostis*).

*Lege Iulia de vi publica damnatur, qui aliqua potestate praeditur civem Romanum antea ad populum,*⁴⁹ *nunc imperatorem appellanem necaverit necarive iusserit, torserit verberaverit condemnaverit † inve publica vincula duci iusserit.*⁵⁰

There were exceptions to the right of appeal (e.g., if one had already confessed or had committed a crime against public discipline [*disciplinam publicam*] such as fomenting sedition).⁵¹ Latte argues that in the early imperium the crucifixion of free individuals was a sign of unusual severity. Later it became quite common for individuals from the lower orders (the *humiliores*).⁵² The conclusion to be drawn from the evidence above is: if Suetonius (in the Galba narrative above) knew of a law against crucifying citizens, he does not mention it, and there probably was not one.

Varro, according to Servius, and others transmitted a tradition in which Valerius Soranus was crucified for divulging the secret name of Rome.⁵³ The narrative, presumably unhistorical, nevertheless demonstrates an important detail: it was conceivable to Varro (116-27 B.C.E.) and other Roman authors that a Roman citizen could be crucified. The scholiast to Juvenal also preserves a tradition according to which Gaius Silius was crucified for “marrying” Messalina.⁵⁴ In this case also the narrative is probably unhistorical. Nevertheless, for one Roman commentator on Juvenal at least, the crucifixion of a citizen was conceivable.

Soldiers could be liable to crucifixion despite their citizenship status if they were convicted of treason or serious crime.⁵⁵ Although Piso’s reasons for crucifying a centurion who was a citizen are hazy, the Senate did not condemn him for the crucifixion itself, but rather for executing the centurion without trial during a period in which Piso himself was no longer the governor of Syria. This does not mean that they would have approved of the crucifixion. The question would only turn up in case the procedure had been com-

⁴⁹ Mommsen (Strafrecht, 242 n.3) inserts *provocationem* here, which would result in “before an appeal to the people.” Cf. the apparatus of PS 5.26.1 in *Iurisprudentiae anteiustinianae reliquias*, vol. 2, BiTeu, ed. E. Seckel and B. Kübler, Leipzig⁶ 1927, 151. The *lex* illuminates the abuses in Acts 22:29 (bonds) and 22:25, 27 (scourging) and Paul’s appeal to Nero in 25:11 (Mommsen, *ibid.*).

⁵⁰ PS 5.26.1. P. Garnsey, *The Lex Iulia and Appeal under the Empire*, JRS 56 (1966) 167-189. Garnsey (*ibid.*, 170-1) believes the lacuna contained a reference to bonds. Important texts for appeal may be found in Ulpian 8 *De officio proconsulis* in Dig. 48.6.7, Maecanatus 4 *publicorum* in Dig. 48.6.8 and PS 5.26.1-2. Cf. Rotondi, *Leges publicae*, 450-1 for many other references (the original law had 88 clauses [Ulpian 3 *De officio procon.* in Coll. 9.2.2-3 (361-2 Kübler)]). I take the trans. from Cook, *Roman Attitudes*, 172.

⁵¹ PS 5.26.2. Cp. Ulpian 10 *ad Sabinum* in Dig. 28.3.6.9.

⁵² Latte, *Todesstrafe*, 1616.

⁵³ Chapt. 2 § 2.7.

⁵⁴ Chapt. 2 § 3.4.1.

⁵⁵ See the discussion of Scipio Africanus (chapt. 2 § 2.1.4) and other examples (chapt. 2 § 3.16, 3.19, 3.20) and cp. Modestinus 4 *De poenis* in Dig. 49.16.3.10 in § 1.5 below.

plied with.⁵⁶ The Senate accuses him of fomenting a civil war.⁵⁷ Gessius Florus in 66 crucified some Jewish equestrians who were accused of treason. Although Josephus comments that this was unprecedented cruelty, the individuals in question had lost their legal protections.⁵⁸ The *status libertatis* (status of being free or a slave) and *status civitatis* (legal status of citizenship) of the *cruciarum* (individuals to be crucified) in Cumae are unclear. They were certainly condemned criminals (*noxii*).⁵⁹ Martial describes various crimes for which an individual could be crucified. One clearly applies only to slaves (i.e., the murder of a master). The others are intriguing, however: temple robbery and arson of Rome.⁶⁰ He does not categorically state that the crucified individual (who was also torn by a bear) was a slave, and the assumption may be made that Martial intends certain citizens to be subject to the penalty – not just slaves and *peregrini* (non-citizens).⁶¹ Tacitus's account of the crucifixion (and immolation) of the Christians in Nero's Rome for arson also contains no indication that all the affected individuals were *peregrini* or slaves.⁶² If Nero did execute Christians who were citizens using aggravated penalties, then the justification would have been the nature of the crime.

With regard to citizens I have endeavored to establish the thesis that crucifixion was not out of the question as a permissible form of execution. Theodore Mommsen argued long ago that toward the end of the Republic the form of execution changed: "The usual death penalty now became crucifixion, simultaneously for free individuals and for slaves, or at the most with the distinction that the free person was flogged to death on the cross while the slave's legs, with less effort of the executioner, were broken or one left him/her to perish on the cross."⁶³ Mommsen conflates the *supplicium more maiorum* (punishment by the custom of the ancestors: being beaten to death while attached to a *furca*) with the *supplicium servile* (the servile penalty: crucifixion), which he thinks is an amazing example of Roman terminological arrogance (i.e., one term for slaves, one for citizens).⁶⁴ The two penalties (the *supplicium more maiorum* and the *supplicium servile*) were not equivalent,

⁵⁶ I owe these last two sentences to Professor Sirks.

⁵⁷ *Senatus Consultum de Cn. Pisone Patre* 45-6 (*bellum etiam civile ex / citare conatus est*).

⁵⁸ Chapt. 2 § 3.5.5.

⁵⁹ Chapt. 2 § 3.9.

⁶⁰ Mart. Sp. 9(7).1-12, chapt. 2 § 3.10.

⁶¹ Cp. Juvenal's belief that a citizen really deserved crucifixion for playing the part of a robber in a mime (Juv. 8.187-8 and Schol. in Juv. 8.187 [147,15-6 Wessner]).

⁶² Tac. Ann. 15.44.4 and cf. chapt. 2 § 3.5.2.

⁶³ T. Mommsen, *Die Geschichte der Todesstrafe im römischen Staat*, Cosmopolis 1 (1896) 231-42, esp. 235 = idem, *Reden und Aufsätze*, Berlin 1905, 437-48, esp. 441-2.

⁶⁴ Mommsen, *Die Geschichte*, 235 (Reden, 441).

however.⁶⁵ Nevertheless it is important that he considers crucifixion a possibility for citizens.

1.4 The *lex Puteolana*

Crucifixion in Campania was regulated in Puteoli by a law that probably dates to the Augustan era. The inscription was found in the ancient forum of Puteoli in three pieces between August 1955 and January 1957.⁶⁶ Its superscript probably read *[De publi]co libitina[r]io* (on the public undertaking concession).⁶⁷

II. 8 Whoever will want to exact punishment on a male slave or female slave at private expense, as he [the owner] who wants the [punishment] to be inflicted,⁶⁸ he [the contractor] exacts the punishment in this manner: if he wants [him] to lead the patibulated individual to the cross (vertical beam), the contractor will have to provide wooden posts, chains, and cords for the floggers and the floggers themselves. And anyone who will want to exact punishment will have to give four sesterces for each of the workers who bring the *patibulum* and for the floggers and also for the executioner.

11 Whenever a magistrate exacts punishment at public expense, so shall he decree; and whenever it will have been ordered to be ready to carry out the punishment, the contractor will have gratis to set up crosses (*cruces*), and will have gratis to provide nails, pitch, wax, candles, and those things which are essential for such matters. Also if he will be commanded to drag [the cadaver] out with a hook, he must drag the cadaver itself out, his workers dressed in red, with a bell ringing, to a place where many cadavers will be.

Column II. 8 *qui supplic(ium) de ser(vo) servave privatim sumer(e) volet uti is {qui} sumi volet ita supplic(ium) sumet si in cruc(em) / 9 patibul(atum)*⁶⁹ *agere volet redempt(or) asser(es) vincul(a) restes verberatorib(us) et verberator(es) praeber(e) d(ebeto) et / 10 quisq(uis) supplic(ium) sumet pro oper(is) sing(ulis) quae patibul(um) ferunt verberatorib(us)q(ue) item carnif(ice) HS IIII d(are) d(ebeto) /*

⁶⁵ Cf. intro. § 3.5 and Castagnetti, *Le leges libitinariae* flegree, 106-11.

⁶⁶ Cf. Cook, *Crucifixion as Spectacle*, 83. On the dating, cf. G. Camodeca, *Per la riedizione della leges libitariae flegree*, in Panciera, *Libitina*, 83-104, esp. 85-8.

⁶⁷ Cf. Bodel, *The Organization of the Funerary Trade*, 148-149. Castagnetti, *Le leges libitinariae* flegree, 9: *[De munere publi]co libitina[r]io*.

⁶⁸ Cp. Ulpian's *Ad edictum* 50 in Dig. 29.5.1.30 *iniquum est ... de omnibus qui in ea regione fuerint servis quaestionem haberi et supplicium sumi* (it is iniquitous to have all the slaves tortured and punishment inflicted [on them] who might be in the region [of a man found murdered]). [Quintilian] *Decl. min.* 380.proem has *supplicium sumere* used to refer to crucifixion of a slave.

⁶⁹ *patibul(um)* Bove, Moreau; *patibul(atum)* (patibulated – attached to a *patibulum*) Bodel, Dumont, *Le supplice*, 89; *patibul(o)* ([the slave] with [the workers carrying the] *patibulum*) Castagnetti, *Le leges libitinariae* flegree, 13, 26 (his interpretation [the workers carrying the *patibulum*] is somewhat inconsistent with his admission that the fundamental idea expressed in the text is that of Pl. Carb. frag. 2), 179-80 (past participles in the *lex* otherwise only omit the case endings). Cf. Hinard/Dumont, *Libitina*, 18 (*patibul[...]*), Panciera, *Libitina* 40, 49 (*patibul[um]*) and Cook, *Envisioning Crucifixion*, 265-266. The stone has PATIBUL-AGERE. See Hinard/Dumont, *ibid.*, Pl. 4-5.

11 quot(iens) supplic[*(i)um*] magistrat(us) public(e) sumet ita imperat(o)⁷⁰ quotienscumq(ue) imperat(um) er(it) praestu esse su-/ 12 plicium sumer(e) cruce^s statuer(e) clavos pecem ceram candel(as) quaeq(ue) ad eas res opus erunt red(emptor) / 13 gratis praest(are) d(ebeto) item si unco extrahere iussus erit oper(is) russat(is) id cadaver ubi plura / 14 cadavera erunt cum tintinnabulo extrahere debebit.^{vacat}

The fragmentary inscription from Puteoli raises some intriguing legal questions, and it illuminates the Roman practice of crucifixion.⁷¹

1.4.1 Crucifixion at Private and Public Expense (*lex Puteolana* II.8, 11)

The owner of the slave had the right of life and death (*ius vitae necisque*) over his or her slave.⁷² Gaius describes the right, but notes that it was limited in the principate:

Slaves, then, are in the *potestas* of their master, this form of *potestas* being power in virtue of the *ius gentium*. For we can observe that equally among all nations masters have had the power of life or death over their slaves. And whatever acquisitions are made through a slave are acquisitions of the master's. But at the present time no people who are subject to Roman rule are permitted to treat their slaves with a severity which is excessive and without statutory cause shown.⁷³ For under an enactment of the deified Antoninus it is obligatory that he who has killed his own slave without due cause be punished no less severely than one who has killed another's slave. But even too great cruelty of masters is restrained by an enactment of the same emperor.

*Igitur in potestate sunt serui dominorum (quae quidem potestas iuris gentium est: nam apud omnes peraeque gentes animaduertere possumus dominis in seruos uitae necisque potestatem fuisse) et quodcumque per seruum acquiritur, id domino acquiritur. Sed hoc tempore nullis hominibus, qui sub imperi<o> Romano sunt, licet supra modum et sine causa legibus cognita in seruos suos saeuire. nam ex constitutione diui Antonini qui sine causa seruum suum occiderit, no<n> minus puniri iubetur, quam qui alienum seruum occiderit. sed at maior asperitas dominorum eiusdem principis constitutione coercetur.*⁷⁴

⁷⁰ Panciera, *Libitina*, 49 *impera*bist.

⁷¹ I think one can reject the possibility that the individuals were scourged to death since that form of execution (using *crux*) does not appear in other Latin texts. The use of *patibulum* also does not warrant the view that the victims were scourged to death. Cf. intro. § 3.1.

⁷² [Quint.] Decl. 6.14 uses the expression for the power fathers have over children. Cp. Gell. 5.9.9 and chap. 1 § 2.25.

⁷³ It is possible that Gaius intends only *peregrini* here (and not Roman citizens). A. Watson and M. Boari do not restrict the reference of the rescript to non-citizens. Cf. A. Watson, *Legal Origins and Legal Change*, London 1991, 286 and M. Boari, *La coercizione privata nella magna glossa. Tracce fra diritto e violenza*, Università di Macerata pubblicazioni della facoltà di giurisprudenza 127, Milan 2007, 23.

⁷⁴ Gaius Inst. 1.52-3 in Dig. 1.6.1.1-2, Digest 1.18. SHA Hadrian 18.7 (Aelius Spartianus) claims that Hadrian forbade masters to execute their slaves and decreed that such masters be condemned by the judges if they deserved it (*servos a dominis occidi vetuit eosque iussit damnari per iudices, si digni essent*). Cp. a law of Constantine (to Bassus, 11 May 319 in Rome, Constantine and Licinius consuls) in CJ 9.14.1.1 (*De emendatione servorum*) which

During the Republic the domestic tribunal (*tribunal domesticum*) can be seen in passages of Cicero's *Pro Cluentio*, Plutarch's *Cato*, and in Plautus. The master's home was a state within the state. Cruel executions, such as that of Strato, could however be used in a tribunal against the slave owner as in Cicero's arguments against Sasia.⁷⁵

The magistrates in Puteoli, when "exacting punishment at public expense" could certainly have slaves crucified, and it is unclear if they had capital jurisdiction over Roman citizens.⁷⁶ Duncan Cloud argues, "It is impossible to believe that municipal magistrates in Puteoli had powers of crucifixion and vivicombustion over Roman citizens, powers denied to the praetor or *iudex quaestionis* in Rome."⁷⁷ A number of scholars do not find this so hard to believe, however.⁷⁸ Claire Lovisi notes that the text does not say that only slaves were the object of the *supplicia* carried out at public expense. They had judicial authority over free individuals such as non-citizens (*peregrini*), and brigands or pirates. There were plenty "doubtful" individuals in a port city such as Puteoli.⁷⁹ Such an argument, based on silence, is inconclusive.

threatens a charge of homicide (*reus homicidii*) against masters who execute their slaves or torture them to death. Cf. Zestermann, *Die Kreuzigung*, 368.

⁷⁵ Dumont, Servus, 126-9 with reference to Cic. Clu. 176-87 (cf. chapt. 2 § 2.9) and Plutarch Cat. Maj. 21.4 (Cato put on trial before his or her fellow slaves those slaves suspected of a capital crime). On the legal background for the crucifixion of slaves cf. also Hinard/Dumont, Libitina, 89-90.

⁷⁶ On the jurisdictions of municipal magistrates, cf. D. Cloud, Municipal Capital Jurisdiction over Roman Citizens: A Chimaera? *Liverpool Classical Monthly* 18 (1993) 39-43, B. Bonfiglio, «*Lex locationis*» di Pozzuoli e supplizio della croce, *Index* 24 (1996) 301-19. Bonfiglio (ibid., 310) thinks the intention of this section of the *lex Puteolana* (i.e., the magistrates' executions at public expense) only refers to slaves, but that the magistrates did have the right to execute *peregrini* and *liberti*. W. Kunkel also believes they had jurisdiction over *peregrini*, but that citizens were not subject to crucifixion, although he does refer ("vgl. alderdings" [nevertheless compare]) to Suet. Gal. 9 (Quaestio, in: *Kleine Schriften*, ed. H. Niderländer, Weimar 1974, 33-110, esp. 105-6) – which apparently concedes the possibility of the crucifixion of citizens in Puteoli. M. Talamanca, review of W. Simshäuser, *Iuridici und Munizipalgerichtsbarkeit in Italien*, *BIDR* 77 (1974) 499-525, esp. 522-3 (referring to Kunkel, ibid.) does not think citizens in Puteoli could be crucified – but he fails to consider Kunkel's apparent concession due to Suet. Gal. 9.1.

⁷⁷ Cloud, *Municipal Capital Jurisdictions*, 41. A. N. Sherwin-White, *The Roman Citizen-ship*, Oxford ²1973, 173 thinks the text is a *lex coloniae* ("it seems") and writes that "it is unclear whether any limitation of *personae* was imposed."

⁷⁸ C. Lovisi, *Les supplices infligés publice*, in: Hinard/Dumont, Libitina, 90-5, H. Galsterer, *Die Begräbnisgesetze von Puteoli und Cumae vor dem Hintergrund der Gerichtsbarkeit in den römischen Städten*, in: Panciera, Libitina, 119-32.

⁷⁹ Lovisi, *Les supplices*, 94. Kunkel, *Quaestio*, 106 also mentions the dubious individuals in a port such as Puteoli and notes that the *lex* is evidence of a rigorous system of "Polizei-justiz" (police justice) in the town. D. Nörr, *Imperium und Polis in der hohen Prinzipatszeit*, *MBPF* 50, Munich 1966, 31-2 argues that municipalities had judicial authority over non citizens, which at times included the authority to impose capital punishment (cf., e.g., Dio

Wilhelm Simshäuser argues that the magistrates in Puteoli could execute free born individuals or even Roman citizens.⁸⁰

In Minturnae a senator named Varus was captured in 43 B.C.E., and he claimed that he was a ληστής (brigand and pirate). The Minturnians condemned him to death. When he protested that he had been a consul and should be put to death by his peers, a centurion beheaded him.⁸¹ Claudius wanted to see an execution in Tibur carried out in the “ancient fashion” (*antiqui moris supplicium*), but no *carnifex* could be found and one had to be sent for from Rome.⁸² Cloud argues that citizens were not executed by a *carnifex*, however he offers no evidence to support his contention which is contradicted by Tacitus and others.⁸³ On the other hand, Suetonius does not specify the social status of the *noxii*. Citizens could be described as guilty (*noxii*).⁸⁴ During the imperium of Septimius Severus (206/7) two bandits had been condemned to death by wild beasts in an Italian city before they were rescued by Bulla, the leader of their band, which probably consisted primarily of runaway slaves.⁸⁵ Callistratus (who lived in the era of Septimius Severus), however, indicates that brigands were often crucified, irrespective of their *status*

Chrysostom 31.82-3, 122 [Rhodes, where the executioner (τὸν δημόσιον) is never to leave the city]).

⁸⁰ W. Simshäuser, *Iuridici und Munizipalgerichtsbarkeit in Italien*, 182. Castagnetti (*Le leges libitinariae* flegree, 64-84 [the most complete survey of the issue]) thinks the assumption that the magistrates of Puteoli had jurisdiction over lower class citizens is unprovable.

⁸¹ Lovisi, *Les supplices*, 91. Cloud, *Municipal Capital Jurisdictions*, 41 points out that they took him as a slave because they were about to torture him. Appian *Bell. civ.* 4.28/120-22 (II, 414,13-415,7 Mend./Vier.). J. Reynolds, *Roman Inscriptions*, 1966-1970, JRS 61 (1971) 136-152, esp. 148 believes only *peregrini* (and not citizens) would be subject to crucifixion.

⁸² Suet. *Cl.* 34.1. On this text see Galsterer, *Die Begräbnisgesetze*, 128. The condemned were already tied to their stakes (*deligatis ad palum noxiis*). According to Suet. *Nero* 49.2 the neck of the condemned according to the custom of the ancestors (*mos maiorum*) was inserted into a *furca*, and the individual was beaten to death. Oldfather, *Supplicium*, 66 (intro. § 3.5).

⁸³ Cloud, *Municipal Capital Jurisdictions*, 41. Cf. *Cic. Rab. perd.* 15, *Sen. Con.* 9.2.8 (a Roman citizen beheaded by a drunk *carnifex* at the command of Flaminus [194 B.C.E.]), *Tac. Ann.* 5.9.1-2 (the children of Sejanus) and *Plin. Ep.* 4.11.9 (execution of a Vestal Virgin by Domitian as *carnifex*). Cf. H. F. Hitzig, *carnifex*, *PWRE* III (1899) 1599-1600 and T. Mommsen, *Römisches Staatsrecht*, Leipzig ³1887, 1.381. In *ibid.*, 225, n. 3 Mommsen hypothesizes that the *noxii* (Suet. *Cl.* 34.1) had been condemned in a magistrate-comitial criminal proceeding (Simshäuser, *Iuridici*, 183 argues that such proceedings did not exist under the principate). Talamanca, review of Simshäuser, *Iuridici*, 522 thinks that the circumstances are too vague to warrant any conclusions about municipal capital jurisdiction.

⁸⁴ Cf. those who betrayed Rome in *Sal. Iug.* 31.26. A rhetor in *Sen. Con.* 9.2.10 portrays the normal method of beheading in the forum. The individual (certainly a citizen) is called a *noxius*. Cp. Sulla's punishment of deserters and other guilty individuals (*in perfugas noxiosque animaduerti*) in the Roman army (*Vell.* 2.23.6). *Cic. Leg.* 3.6 mentions the punishment of the guilty citizen (*noxium civem*).

⁸⁵ Cassius Dio 76(77).10.1-3. Bulla mentions slaves who turn to brigandage in 76.10.5.

libertatis (freedom status) or *status civitatis* (citizenship status).⁸⁶ Consequently the two bandits could have been citizens, since they had been sentenced to one of the extreme penalties. It is possible that the magistrates of Puteoli had jurisdiction over citizens of low status (the *humiliores*), but one cannot be certain.

1.4.2 *Crux and Patibulum (lex Puteolana II.9-10)*

In the *lex*, the contractor's laborers lead the condemned slave "patibulated" (that is, with his or her wrists or hands attached to opposing ends of the horizontal bar) to the "cross" (*crux*), which is used in its sense of a vertical beam. There is a textual problem with regard to the reconstruction of *patibul(...)* in II.9, but it is clear in both II.9 and II.10 that the *patibulum* or the patibulated individual is being brought to the vertical beam (*crux*) – whatever reading one chooses to adopt. It is unnecessary to conjecture a mistake such as the omission of <cum> or <sub> *patibul(o)* (with or under a *patibulum*) or *patibul(um) <ferentem>* (carrying a *patibulum*) in II.9 because of the presence of *patibul(um) ferunt* in II.10. There is no inherent improbability of a morphological change between the two lines.⁸⁷ *Ferre* implies that the workers carried the *patibulum*, presumably to the slave who was then attached to it and led to the beam/cross while being flogged.⁸⁸ Their pay was apparently fairly low.⁸⁹ Samuelsson mentions *patibul(atum)* as a possibility for II.10 and II.9, but without philological justification opts for *in cruce[m] patibul* as the object of *agere* (bring the slave to a cross or *patibulum*).⁹⁰ Forms of *agere in cruce[m]* (lead to a cross) are common,⁹¹ but *in patibulum* never appears in syntactical

⁸⁶ Cf. § 1.5 below.

⁸⁷ For various conjectures, cf. Hinard/Dumont, Libitina, 118.

⁸⁸ Hinard/Dumont, Libitina, 117. I thank Professor John Bodel for comments on the restoration of II.9 and II.10.

⁸⁹ Cf. some graffiti from Pompeii: CIL IV 5380 (*vinum domatori denarius* [wine of the trainer, one denarius], *tri<u>icum* [(denarius) I [wheat, one den]. A denarius was 4 sesterces; CIL IV 8561a (*vinum a(sse) I cas[e]um a(sse) I / oleum a(sse) I ... suar(ia) a(ssibus) IIII* [wine, one *as*, cheese, one *as*, oil one *as* ... pork 4 *asses*]). 4 *asses* = 1 *sestertius*.

⁹⁰ Samuelsson, Crucifixion, 201 (his conjectures). Presumably he means *in cruce[m] patibul(um)ve*. Samuelsson does not discuss the pagan graffiti and their illumination of the clear testimony of Seneca, Firmicus Maternus and others above (intro. § 3.1) that individuals' hands were stretched out on *patibula* during crucifixion. His skepticism (*ibid.*, 286 and cp. 174 and 189) with regard to the nature of a *patibulum* and its relationship with *crux* is consequently unnecessary.

⁹¹ For the passive (be brought to the cross), cf. Suet. Cal. 12.2: *liberto, qui ob atrocitatem facinoris exclamaverat, confestim in cruce[m] acto* (a freedman, who cried out concerning the wickedness of the crime, was immediately taken to the cross). Cp. Cic. Ver. 2.5.163 *In cruce[m] tu agere ausus es* (you [Verres] dared to take someone to the cross). Cic. Ver. 2.5.165 has a similar expression: *in cruce[m] ageretur* (he was led to the cross). Cp. Calp. Decl. 33 where a prostitute leads her slave off to the cross because he fell in love with her:

combination with *agere* in classical literature (i.e., “lead to a *patibulum*” is never used).⁹² One brings the condemned person to the *crux*, but not to the *patibulum*, which the condemned carries from the beginning of the journey in Latin texts.⁹³

From the *lex*, one can conclude that the condemned slave was flogged while attached to the *patibulum* and perhaps before. The *crux* (in this context “upright post”) had already been set in place by the executioner. This picture corresponds precisely with the evidence from Plautus, Clodius Licinus, and Firmicus Maternus.⁹⁴ If *asser(es)* is the correct reconstruction, then it refers to the two parts of the cross. However, if *asser(em)* is the correct reading then the term refers to the vertical post with the *patibulum* being the horizontal element.⁹⁵ The texts are evidence that the *patibulum* was not removed before crucifixion. The *vincula* are the bonds of the crucified individual (cf. figures 1-2) or the objects used to hold the two elements of the cross together. It is also possible that they are chains placed on the prisoner before crucifixion.⁹⁶ The scholars of the research colloquium on the *lex Puteolana* led by François Hinard and Jean Christian Dumont conclude, based on some of the

Meretrix servum suum amantem se in crucem agit. In Calp. Decl. 17 a *paedagogus* (slave) is led to the cross (*agitur paedagogus in crucem*), because his charge (a young man) is caught in adultery and killed. Both slaves defend themselves in court. Other forms of *agere in crucem*: Cic. Ver. 2.5.164, 170, Clu. 187, and Fin. 5.84. Another variation is Cic. Ver. 2.5.166 *quem tu in crucem rapiebas* (whom you dragged to the cross).

⁹² *patibulum* occurs in these forms: Pl. Carb. frag. 2 (*patibulum ferat*); Pl. Most. 56 (*forabunt patibulatum*); Clodius Licinus frag. 3 (*deligat(a) ad patibulos*). *patibulo* is the object of *suffigere* in Apul. Met. 6.31.1, 10.12.4, Firmicus Maternus Math. 6.31.58, and of *affigere* in Sal. Hist. 3.9, V. Max. 9.2.3 (a headless corpse), Tac. Hist. 4.3.2, Ann. 4.72.3, SHA Tyranni Triginta 29.3-4 (Trebellius Pollio), and *pendere* in Sen. Ep. 101.12. Cp. Sen. frag. 124 (BiTeu 42, Haase) *extendendae per patibulum manus*, Dial. 6.20.3 *alii brachia patibulo explicuerunt*, Dial. 7.19.3 *ex patibulo suo spectatores conspuerent*. Cf. intro. § 3.1.

⁹³ Hinard/Dumont, Libitina, 117. The first occurrence of motion toward a *patibulum* alone that I have found occurs in Dhuoda’s (IX C.E.) *Liber manualis* 3.7 (SC 225, 162, 11-16 Riché), in a passage in which she counsels her sixteen-year old son to perform his military service not by following the path of Haman but by following that of the humble Mordecai. In accord with the providence of God, Haman with his household went away to the *patibulum* (*abiens in patibulum*), an object on which she writes that Haman was suspended (*in eo suspensus est* [164, 30.32 Riché]). Here *patibulum* is a near synonym of the cross (*crux*). Esther 7:10 Vulgate (*suspensus est itaque Haman in patibulo*), 6:4 *adfigi patibulo* (be nailed/fixed to the *patibulum*) corresponds with 5:14 *iussit excelsam parari crucem* and 8:17 *ipsum iussit adfigi cruci*. In Jerome’s trans., Gen 40:19 *suspendet te in cruce* corresponds with 40:22 *suspendit in patibulo*. The two words are syntactically interchangeable, thus nearly synonymous.

⁹⁴ Cf. intro. § 3.1.

⁹⁵ Hinard/Dumont, Libitina, 118.

⁹⁶ Occasionally chains (on the feet and/or on the neck) were used for condemned criminals on the way to their crosses: chapt. 2 § 2.3.4 Florus Epitome 2.7 (olim 3.19.7-8), Chari-ton Chaer. 4.2.6-7, Pl. Cur. 693 (led to a cross with the neck bound), and Luc. 7.304.

evidence surveyed above, conclude that the walk of the condemned person attached to a *patibulum* normally led to death on the cross.⁹⁷

1.4.3 Ropes and Scourging

The ropes are probably not bonds for the crucified, but are for the individuals who flog the patibulated slave (female or male).⁹⁸ During the imperium (at least by ca 211), there was a distinction between the object used to flog slaves and the freeborn. Aemilius Macer, in a work probably written shortly after 210, wrote:

In the case of slaves, the rule is observed that they are punished after the fashion of people of low rank. For the same reason that a freeborn person is beaten with rods, a slave is ordered to be beaten with lashes and returned to his/her master;

*In servorum persona ita observatur, ut exemplo humiliorum puniantur. Et ex quibus causis liber fustibus caeditur, ex his servus flagellis caedi et domino reddi iubetur.*⁹⁹

On 11 Feb. 153, seven Roman citizens testified (a *testatio*) in a deposition that they had seen a veteran (i.e., a Roman citizen) beaten by two guards of a strategus in Philadelphia in the *Caesareum*:

... we beheld Gaius Maevius Apellas, veteran of the *ala Apriana*, being beaten on the order of the strategus Hierax by two guards with rods and clubs (or perhaps “whips”).

... ἐθεασάμεθα Γάιον Μηρούιον Ἀπελλᾶν οὔτετρανὸν εἰ[λης Ἀπριανῆς δερόμενον] τοῦ στρατηγοῦ Ἰέρακος κελεύοντος / [ὑπὸ] φυλάκων δύο ῥάβδοις καὶ κόμμασι.¹⁰⁰

⁹⁷ Hinard/Dumont, Libitina, 117 with reference to the work of Cantarella (I supplizi, 192-8) who concludes that the Roman cross was composed of two members: the vertical *stipes* and the horizontal *patibulum*.

⁹⁸ Hinard/Dumont, Libitina, 118.

⁹⁹ Macer 2 De publicis iudiciis in Dig. 48.19.10.pr. Digest 4.363 (modified). On the date cf. Die Literatur des Umbruchs, Von der römischen zur christlichen Literatur; 117 bis 284 n. Chr., vol. 4, ed. K. Sallmann et al., Handbuch der Altertumswissenschaft, Munich 1997, § 430.3, 214-15. The principle was not always followed as Aubert, A Double Standard, 107 demonstrates. P.Wisc. I, 33.10-12, (after 8 Sept. 147) concerns the actions of a former village scribe against a strategus (a Roman governor): πάν/των των αἰσχιστόν ἐστιν τῶν ἐν τῷ βίῳ ἀδικημάτων τὸ ἐλευθέρους ἀνθρώ/πους ὕβρεως [τ]υγχάνειν (of all the wrongful acts in life, the most shameful is for free persons to experience outrage [or insolent pride]), 33.20 τοὺς ἐλευθέρους τύπτειν καὶ παίειν καὶ μαστιγοῦν ὥς δο[ύλο]υς (to beat and strike and flog the freeborn as slaves). Aubert notes that this shows that provincials claim the rights of freedom. A *transmarinus* (probably a trader, not a *Brittunculus*) in Vindolanda complains of being beaten though innocent and to have been bloodied by rods as if he had committed some kind of crime ([i]nnocentem virgis cas[t]igatum / ... virgis cruent[at]u[m] esse ac si aliquid sceler[i]s / comississem), perhaps by a centurion. See Vindolanda 344.

¹⁰⁰ SB V 7523 r.A.3-4. The attestation of one witness is lost. I assume that the Greek terms probably correspond to the *virgis et fustibus* of CIL VIII, 10570 (and so κόμμασι may not be leather whips). Cp. CPR 10.59.3 (VI CE) ξύλου κόμμα(τα) η (8 pieces of wood).

In the *Saltus Burunitanus* (near Souk el Khemis) in Tunisia, farmers protested their treatment at the hand of the soldiers of an unnamed imperial procurator in an inscription from 180-183 CE:

... after soldiers were sent in the same *Saltus Burunitanus* (Burutinian estate), he ordered some of us to be arrested and mistreated and others to be chained and even some Roman citizens to be beaten with rods and clubs ...

... *missis militib(us)* / [*in eu*]ndem saltum *Burunitanum ali[/os nos]trum adprehendi et vexari ali[/os vinc]iri nonullos cives etiam Ro[/manos] virgis et fustibus effligi iusse[/rit]*
...¹⁰¹

A fourth century edict of a praeses of Egypt asserts the same legal principle:

Edict of Aurelius Herodes, most honourable praeses of the Thebaïd. Subjection to the punishment of scourging [whips], called in the native speech ...,¹⁰² is even for those of servile estate lamentable although not entirely forbidden; but for free men to be submitted to such an outrage is contrary to the laws and justice.

Αὐρήλιος Ἡρώδης ὁ διασημότατος ἡγούμενος / Θηβαΐδος λέγει· τὸ τὴν διὰ τῶν ἱμάντων λη/ταρί[.]ων ἐπιχωρίως οὕτω καλουμένων αἰκεῖ/αν ὑπομένειν ἐστὶν μὲν καὶ ἐπὶ τῶν δουλι/κῆν τύχην εἰληχότων ἀνιαιρόν, οὐ μὴν κατὰ/ τὸ παντελὲς ἀπηγορευμένον, ἐλευθέρους δὲ/ ἄνδρας τοιαύτην ὕβρειν ὑπομένειν οὔτε τοῖς/ [νόμοις] ἀκόλ[ου]θον ἀδικεῖαν τε [ἔ]χον ἐστὶν ἐν¹⁰³

Scourging or flogging with rods is often mentioned in conjunction with crucifixion.¹⁰⁴ A vivid image of the torture appears in Cicero's indictment of the ex-governor of Sicily, Verres, for flogging (and crucifying) a Roman citizen. Gavius of Consa, citizen and merchant, had been imprisoned in Verres' stone quarries. On escaping he reviled Verres in Messana, not realizing the danger he was in. "Suddenly he [Verres] ordered him to be snatched (from custody) into the middle of the forum, to be stripped and bound, and that rods be prepared."¹⁰⁵ "He ordered him to be flogged vehemently all over his body. A Roman citizen was beaten with rods in the middle of the forum of Messana,

Another possibility is a rope whip (i.e, a piece of rope), however. Cf. P.Lond. 3.1177.169-70 (131-2 C.E.): ... σχοινίων σαρκίνων καὶ κομ/μάτων (δραχμαὶ) ζ, Εὐαγγέλφ σχο[ιν]ιοπλόκ(φ) (ropes of gut and *kommata* worth 6 drachma, made by Euaggelos, ropemaker). The note in P.Lond 3, p.185, with regard to the term, is: "an unfamiliar use of the word, as it is evidently a part of the mechanism of the water-engines, and is produced by a σχοινιοπλόκος" (ropemaker).

¹⁰¹ CIL VIII, 10570 = CIL VIII, 14464 = ILTun 1237. Cf. A. Deman, *Matériaux et réflexions pour servir à une étude du développement et du sous-développement dans les provinces de l'empire romain*, ANRW II/3 (1975) 3-97, esp. 39-40.

¹⁰² A. S. Hunt, the editor, surmises (P.Oxy. IX, 202) that this word could stand for *lethalium* (lethal).

¹⁰³ P. Oxy. IX, 1186, trans. of P. Oxy. IX, 201-2.

¹⁰⁴ Mark 15:15. Cf. chapt. 6 § 1.2.

¹⁰⁵ Cicero, Ver. 2.5.160-161: ... *cum repente hominem proripi atque in foro medio nudari ac deligari et virgas expediri iubet*.

members of the jury.” In the midst of the cracking of the blows the only sound heard was “I am a Roman citizen.”¹⁰⁶ The *lex Julia de vi publica* (the Julian law on public violence) protected Roman citizens from torture (before conviction and appeal), although it may date to a time later than Verres’ trial.¹⁰⁷ Verres had falsely condemned Gavius as a spy.¹⁰⁸ Another image from the next century (ca. 62-64, Albinus’ procuratorship) appears in Josephus’ account of one of the prophets of the temple’s doom who is “lacerated with scourges” before the governor until his bones show.¹⁰⁹ Scourging and other tortures, whatever the body could stand, preceded crucifixion, the final punishment that was lying in wait, according to Philo and Josephus.¹¹⁰ In a narrative of Livy the praetor Glabrio crucified the leaders of a slave revolt after scourging them (*alios verberatos crucibus adfixit qui principes coniurationis fuerant*).¹¹¹ Whips could be fortified with bone parts or lead.¹¹² The Christian rulers did not stop their use as in this text from the *Theodosian Code*:

On the other hand, from beatings with leaden scourges which We do not approve when inflicted upon the bodies of freeborn persons, We do not exempt all the aforesaid order [decurions], but We relieve only the decemprimi decurions of the order from the cruelty of such blows, and in the case of the rest, moderation in the use of this punishment shall be exercised by the judge.

Plumbatarum vero ictus, quos in ingenuis corporibus non probamus, non ab omni ordini submovemus sed decemprimos tantum ordinis curiales ab immanitate huiusmodi ver-

¹⁰⁶ Cicero, Ver. 2.5.161-162: *deinde iubet undique hominem vehementissime verberari. Caedebatur virgis in medio foro Messanae civis Romanus, iudices, cum interea nullus gemitus, nulla vox alia illius miseri inter dolorem crepitumque plagarum audiebatur nisi haec, “Civis Romanus sum.”*

¹⁰⁷ The evidence for the date of this law is vague. Cf. B. Santalucia, *Diritto e processo penale nell’antica Roma*, Milan ²1998, 198 (possibly Augustus).

¹⁰⁸ Cic. Ver. 2.5.161. Pöhlönen, *Plebeians*, passim discusses the *lex Julia*. Cf. in particular Ulpian *De offic. procons.* 8 in Dig. 48.6.7 and PS 5.26.1.

¹⁰⁹ Josephus B.J. 6.304: *μάστιγι μέχρι ὀστέων ξανόμενος*.

¹¹⁰ Philo Flacc. 72 *ἐμαστιγοῦντο, ἐτροχίζοντο, καὶ μετὰ πάσας τὰς αἰκίας, ὅσας ἐδύνατο χωρῆσαι τὰ σώματα αὐτοῖς, ἢ τελευταία καὶ ἑφεδρος τιμωρία σταυρὸς ἦν*. Josephus B.J. 2.306, 308 (where Florus crucifies some Jews in Jerusalem who are Roman citizens of equestrian rank); 7.200-202 (the Roman general Bassus captures a Jewish youth, scourges him, and sets up a cross, although the youth is ransomed).

¹¹¹ Liv. 33.36.3.

¹¹² Curt. 6.11.17 (BiTeu 145 Vogel) *intumescens corpus ulceribus flagellorum ictus nudis ossibus incussos ferre non poterat* (a body swollen with sores could not bear the blows, intertwined with bare bones, of whips), Apul. Met. 8.30.2 (*flagro illo pecuinis ossibus catenato verberantes paene ad extremam confecerant mortem* beating [the ass] with a whip interlocked with cattle bones, they almost had brought [him] to the edge of death).

*berum segregamus, ita ut in ceteris animadversionis istius habeatur moderatio commonentis.*¹¹³

Scourging could lead to death, and with bone or lead-studded whips it would not be surprising.¹¹⁴

1.4.4 Pitch, Wax, and Candles (*lex Puteolana II.12*)

The pitch and wax were used for torture also.¹¹⁵ In addition to the scourging, Gavius was subjected to torture by fire:

... in a Roman province, in a town whose people have special privileges, a Roman citizen could be bound and flogged in the market-place by a man who owed his rods and axes to the favour of the Roman people? When the fire and hot metal plates and the like were brought to torture him, even if his agonized entreaties, his pitiful cries could not stay your hand, was your soul untouched even by the tears and the loud groans of the Roman citizens who then stood by? You dared to crucify any living man who claimed to be a Roman citizen?

*... civis Romanus in provincia populi Romani, in oppido foederatorum, ab eo qui beneficio populi Romani fascis et securis haberet deligatus in foro virgis caederetur? Quid? cum ignes ardentisque laminae ceterique cruciatus admovebantur, si te illius acerba imploratio et vox miserabilis non inhibebat, ne civium quidem Romanorum qui tum aderant fletu et gemitu maximo commovebare? In crucem tu agere ausus es quemquam qui se civem Romanum esse diceret?*¹¹⁶

Cicero sees it as part of the process of crucifixion slaves underwent (although Verres had pardoned some rebellious slaves):

What then follows? Floggings and burnings and those extreme steps in the punishment of the condemned, bringing fear to the others, torture and cross. They were freed from all these punishments.

*Quid deinde sequitur? Verbera atque ignes et illa extrema ad supplicium damnatorum, metum ceterorum, cruciatus et crux. Hisce omnibus suppliciis sunt liberati.*¹¹⁷

¹¹³ CTh 9.35.2.1 ([Theodosiani libri XVI cum constitutionibus Sirmondinis 1/2, ed. by P. Krueger and T. Mommsen, Hildesheim 1990, 490,3-6] Sept. 17, 376 at Trier by Valentinian, Valens, and Gratian to the Praetorian prefect of Gaul). Trans. of C. Pharr, *The Theodosian Code and Novels and the Sirmondian Constitutions. A Translation with Commentary, Glossary, and Bibliography in Collaboration with Theresa Sherrer Davidson and Mary Brown Pharr*, New York 1952, 251.

¹¹⁴ Servilius is beaten to death in Cic. Ver. 2.5.140-142.

¹¹⁵ Hinard/Dumont, Libitina, 119-20, Aubert, Double Standard, 114, Pölönen, Plebeians, 223, Bodel, The Organization of the Funerary Trade 156.

¹¹⁶ Cic. Ver. 2.5.163 (trans. of Greenwood, Cicero, 2.647). He thought his citizenship would protect him from the flogging and torture in 2.5.162. Cicero appeals to the *lex Porcia* against such treatment of citizens (5.63.163). See also Cic. Rab. Perd. 12 in § 1.3 above. Cp. Pl. As. 549-51 (the tortures used against slaves including red hot metal plates [cf. chapt. 1 § 1.2]), [Quint.] Decl. 18.11 *laminas accendis* (you heat the metal plates).

¹¹⁷ Cic. Ver. 2.5.14.

One of Plautus's plays describes the use of pitch by the torturer: "And by Pollux, if this old gentleman should be wise, black pitch would disturb you at the torturer's place and would shine on your head."¹¹⁸

The *tunica molesta* (torturing tunic) may be the reference of the *lex*.¹¹⁹ As an example of the spectacle of evil (*mali pompa*) Seneca mentions the tunic smeared and interwoven with fuel for fire (*illam tunicam alimentis ignium et inlitam et textam*).¹²⁰ Juvenal may be referring to the "burning shirt" in this comment: "Just write about Tigellinus and you will blaze amid those pine torches in which men stand and burn and smoke with their throats fixed, and you will trace a broad furrow through the middle of the arena."¹²¹ The scholiast remarks:

"Write about Tigellinus" that is in satire; assume that you engage in vituperative rhetoric against Tigellinus, whom if you insult, you will burn alive, as in the public show of Nero they burned alive, whom he had judged to be made candles, that they might provide light for the spectators, when their throats were fixed lest they stoop. "You will blaze amid those pine torches in which people stand and burn and smoke with their throats fixed": Nero clothed some evil people with pine resin and papyrus and wax and commanded that fire be brought so that they would burn. "And he traces a broad furrow in the middle of the arena": That is, when removed one was dragged through the arena, and made a furrow with his/her body. Or he speaks of a ditch in which stakes were fixed, on which they burned.

155 3 (*pone Tigellinum*): *hoc est in satura: pone te vituperare Tigellinum, quem si lae-seris, vivus ardebis, quemadmodum in munere Neronis vivi arserunt, de quibus ille iusserat cereos fieri, ut lucerent spectantibus, cum fixa illis essent guttura, ne se cur-varent.* 4 (*Taeda lucebis in illa qua stantes audent qui fixo gutture fumant*): Nero maleficos homines taeda et papyro et cera supervestiebat et sic ignem admoveri iubebat, ut arderent. 157 1 *Et latum media (sulcum deducit harena): abductus enim cum per harenam traheretur, sulcum corpore suo fecit.* 2 *Vel fossam (dicit), in qua stipites figebantur, in quibus ardebant.*¹²²

In his remark on Juvenal, Sat. 8.235 (*tunica molesta*), the scholiast writes: "Clothing made from papyrus smeared with pitch, in which those who were sentenced to fire in punishment used to blaze (*vestis ex c(h)arta facta pice in-lita, in qua ignibus in poenam addicti ardere solent*)."¹²³ Lucretius describes pitch as one of the punishments for evil deeds in a long list of atone-

¹¹⁸ Pl. Capt. 596-597 *At pol te, si hic sapiat senex, / pix atra agitet apud carnificem tuo-que capiti inluceat.* Cp. Atticus frag. 2.16 in chapt. 3 § 5.3.

¹¹⁹ On this object, cf. Cook, Roman Attitudes, 69, 74, 77-8, and idem, Envisioning Crucifixion, 269. Cf., e.g., Plutarch Sera 9 554B, Mart. 10.25.5, 4.86.8, Tert. Nat. 1.18.10, and Tert. Mart. 5.1.

¹²⁰ Sen. Ep. 14.5.

¹²¹ Iuv. 1.155-157 *pone Tigellinum: taeda lucebis in illa / qua stantes ardent qui fixo gut-ture fumant, / et latum media sulcum deducis harena.*

¹²² Schol. in Iuv. 1.155, 157 (15,12-16,20 Wessner).

¹²³ Schol. in Iuv. 8.235 (150,16-17 Wessner).

ments for crime: the cell and the horrible throwing down from the rock, floggings, torturers, the condemned cell, pitch, [burning] plates, and torches (*carcer et horribilis de saxo iactus deorsum, / verbera carnifices robur pix lammina taedae*).¹²⁴ Fire was part of the Roman torturer's tool kit.¹²⁵ Nero may have used torture shirts on the Christians he crucified in Rome, but they were tortured by fire using some method.¹²⁶

Aubert notes the ambiguity in the regulations and argues that the pitch, wax, and candles could be for execution by burning or for the torture that preceded crucifixion.¹²⁷ Although the *lex*, in the preceding section on the crucifixion of slaves, distinguishes *crux* from *patibulum*, it seems unlikely that *crematio* is the intention here, since *stipes* would be a more appropriate term for the stake used in death by fire.¹²⁸ Tertullian apparently describes some rhetoric current in his day about Christians:

So you may call us "faggot-fellows" and "half-axe-men," because we are tied to a half-axe-post, the faggots are piled round us, and we are burnt.

*Licet nunc et "sarmentarios" et "semiaxios" appelletis, quia ad stipitem dimidii axis reuincti sarmentorum ambitu exurimur.*¹²⁹

In the *Historia Augusta* (fictional or not), Severus Alexander had a man "smoked" who was selling imperial favors:

... he issued instructions to bind him to a stake in the Forum Transitorium. Then he ordered a fire of straw and wet logs to be made and had him suffocated by the smoke, and all the while a herald cried aloud, "The seller of smoke is punished by smoke."

¹²⁴ Lucr. 3.1016-1017.

¹²⁵ Hinard/Dumont, Libitina, 120 refer to Sen. Con. 9.6.18, 10.5.9, Sen. Ben. 4.21.6, Calp. Decl. 7 (36 Sussman: *flagella ignibus adiuvantur* [whips are supplemented by flames]), [Quint.] Decl. 7.13, 18.11.

¹²⁶ Cf. chapt. 2 § 3.5.2.

¹²⁷ Aubert, Double Standard, 114.

¹²⁸ *lex Puteolana* II.8-10. See the comments of C. Lovisi in Hinard/Dumont, Libitina, 92 (*crux* is not used for a punishment other than crucifixion). The colloquium (of Hinard/Dumont) mentions the possible exception of Tac. Ann. 15.44.4 (ibid., 120). But Tac. Ann. 14.33.2 *caedes patibula ignes cruces* (killings, gibbets, burnings, and crosses) clearly distinguishes crucifixion (*crux*) from *crematio*, as does Sen. Dial. 5.3.6 *cruces et circumdati defossis corporibus ignes* (crosses and fires encircling living bodies implanted in the ground, trans. Basore, Seneca, Moral Essays, 1.261). Sen. Ep. 14.5 also distinguishes crucifixion from the combustible tunic (*cruces ... illam tunicam*). Cp. Apul. Met. 6.31.3 (*nec feras nec cruces nec ignes* [not wild beasts, crosses, nor burnings]) and the executions in Ruf. Hist. 5.1.41 (*Blandina religata ad stipitem atque in crucis modum distenta* Blandina bound to the stake and stretched out in the manner of the cross [GCS Eusebius Werke II, 419,6-7 Mommsen]) and Ruf. Clem. 9.11.4 (*ad stipitem conligatur urendus* bound to the stake to be burned [GCS Die Pseudoklementinen. Die Rekognitionen 263,22 Rehm/Strecker]).

¹²⁹ Tert. Apol. 50.3. Trans. of Tertullian, Apology. De spectaculis, LCL, ed. and trans. T.R. Glover, Cambridge, MA/London 1931, 223.

... in foro Transitorio ad stipitem ill<um> adligari praecepit et fumo adposito, quem ex stipulis atque umidis lignis fieri iusserat, necavit praecone dicente: "fumo punitur, qui vendidit fumum."¹³⁰

The scholiast to Juvenal (probably IV C.E.) also uses the word for the object that individuals were attached to while being burned to death.¹³¹ Tertullian, the *scriptor* of the *Historia*, Rufinus,¹³² and the scholiast indicate the appropriateness of *stipes* (stake) for *crematio*. One can confidently infer that the *cruces* of the *lex* refers to crucifixion and not *crematio*. The expression *crucis statuere* (set up vertical beams/crosses) in II.9 corresponds with similar statements in other texts that describe crucifixions.¹³³

1.4.5 Nails (*lex Puteolana* II.12)

The nails mentioned in the *lex* appear in a sentence that lists elements of torture, so they likely refer to the implements used in crucifixion.¹³⁴ The most well known archaeological relic of crucifixion is the nail that remains in Jehoḥanan ben Ḥaqḡol's right calcaneum.¹³⁵ Nails are mentioned in several incidents of historical Roman crucifixions.¹³⁶ John 20:25 assumes nails were used in Jesus' crucifixion also. Several pagan oracles attributed to Apollo that describe Jesus' crucifixion include the use of nails.¹³⁷ Greco-Roman and rabbinic texts attest to the use of nails from victims of crucifixion for magical

¹³⁰ SHA Severus Alexander 37.2 (Aelius Lampridius). Trans. of Magie, *Historia Augusta*, 2:249. Cp. Cic., Ver. 2.1.45 where Verres tortures an ally of Rome using suffocating smoke made from a fire of green wood.

¹³¹ Schol. in Iuv. 1.155, 157 (15,12-16,20 Wessner) above.

¹³² Cf. Ruf. Clem. 9.11.4 above.

¹³³ Cp. the verb in Josephus B.J. 7.202 – an account of Bassus ordering a cross to be “set up immediately as though he meant to suspend Eleazar immediately” (ὁ μὲν γὰρ προσέταξε καταπηγνύναι σταυρὸν ὡς αὐτίκα κρεμῶν τὸν Ἑλεάζαρον) and Chariton Chaer. 5.10.6 τὸν σταυρὸν ... ὃν ἔπηξέ μοι (... the cross set up for me). Xenophon Eph. 4.2.3 has ἀναστήσαντες τὸν σταυρὸν (setting up the cross). *Statuere* is also used in Suet. Galb. 9.1 for “having a cross set up” (*statui crucem iussit*). See also Cic. Rab. Perd. 11 *crucem ad civium supplicium defigi et constitui iubet* (you have ordered that a cross be set up and established for the punishment of citizens).

¹³⁴ Nails could merely serve in the construction of a cross as in Artemidorus Onir. 2.53 (BiTeu, 183,7 Pack). Cf. Bodet, *Organization*, 146. Hinard/Dumont, *Libitina* 119 argue that they were used for crucifixion in the *lex*.

¹³⁵ Chapt. 2 § 3.4.4 and figures 11-13.

¹³⁶ Eros crucified by Augustus, the Jerusalem equestrians crucified by Florus, deserters from the Jerusalem siege crucified by Titus's soldiers, and the martyrs of Egypt crucified during Maximinus Daia's imperium. Cf. chapt. 2 § 3.1.4 Eros, 3.4.4, 3.5.5, 3.8.5, 3.24.1. See also Hengel, *Crucifixion*, 31-32.

¹³⁷ Porphyry in Aug. Civ. 19.23 (BiTeu 393,4-17; Dombart/Kalb) and an oracle in answer to an anonymous individual's question in Lact. Inst. 4.13.11. Celsus also believes Jesus had been nailed to the cross (Origen C. Cels. 2.61). Macarius Magnes' anonymous philosopher thought Peter too had been nailed to his cross (Macarius Monogenes 4.4.2).

purposes.¹³⁸ A rabbinic text attests to the use of ropes and nails in crucifixion, and may be a description of Roman practice.¹³⁹ Greek and Latin authors use the image of crucifixion nails in various metaphors.¹⁴⁰ They also mention the use of nails in crucifixions, both fictional and historical.¹⁴¹ The image appears in astrological texts also.¹⁴² Plautus assumes the practice of nailing victims to the cross by their hands and feet in his *Ghost*.¹⁴³ This context explains the use of nails in the *lex*, probably as an element of the victim's torment and not for the construction of the cross.

1.4.6 The Hook (*lex Puteolana* II.13)

At least some of the corpses of individuals in Puteoli who had been crucified were dragged off with hooks to the burial grounds. First they suffered the indignity of being dragged through the streets using an implement familiar in Roman spectacles. Sejanus was dragged by a hook, to be viewed while the onlookers rejoiced (*Seianus ducitur unco spectandus. / gaudent omnes*).¹⁴⁴ Cicero mentions slaves' and citizens' fear of such an event in a passage in which he discusses the horror of crucifixion.

Can truly the kindness of owners, by one assertion of freedom, not liberate our slaves from the fear of all those punishments; can neither our actions, nor the life we have lived, nor your honors [conferred on us] not free us from floggings, from the hook, and finally from the terror of the cross?

¹³⁸ m. Shabb. 6:10, y. Shabb 6:9 (8c), T-S Arabic 44.44 (2/18; cf. J. Naveh and S. Shaked, *Amulets and Magic Bowls. Aramaic Incantations of Late Antiquity*, Jerusalem/Leiden 1985, 220-22), Luc. 6.547, Apul. Met. 3.17.4-5, Plin. Nat. 28.41, 46, Lucian Philops. 17, Alexander, *Therapeutica* Περὶ ἐπιληψίας (I, 567 Puschmann). Cf. chapt. 6 § 1.2.

¹³⁹ Esther Rabbah 10:5, cf. chapt. 4 § 3.8 and cp. the many references to the use of nails in crucifixion in Chapman, *Ancient Jewish and Christian Perceptions*, 319 s.v. "nails" (106, 186, 238, and 266 should be added to his index).

¹⁴⁰ Sen. Dial. 7.19.3. In Plutarch *An vit.* 499D, Theodorus the philosopher scorns being crucified with nails. Cp. Philo Post. 61, Somn. 2.213, Iamblichus *De vita Pyth.* 32.228 (cf. chapt. 3 § 2.3). Galen uses the image to make a medical point (*De usu partium* 12.11).

¹⁴¹ Cf., e.g., Diodorus Siculus 2.18.1 (a legendary text about Semiramis), 25.5.2, Prom. 1-2 (nailed to the Caucasus), Cat. 13, Aelius Aristides Or. 3.378, and Artemidorus *Onir.* 2.56.

¹⁴² Ps. Manetho *Apotelesmatica* 1.148-9, 4.196-200, 5.219-21.

¹⁴³ Pl. Mos. 359-60 (chapt. 1 § 1.2).

¹⁴⁴ Juv. 10.66-7. Cp. 13.243-4 *dabit in laqueum vestigia noster / perfidus et nigri patietur carceris uncum* (our treacherous man will put his feet in a snare and will suffer the hook of the dark prison). The elder Seneca (*Con.* 9.2.2) describes a scene in which an individual who has been decapitated was dragged by the hook (*Reliquiae praetoris unco trahebantur* [what is left by the praetor will be dragged by the hook]). Cassius Dio 60.35.4 notes the custom of the executioner to drag by large hooks (ἀγκίστροις τισί μεγάλαις) those executed in the prison to the forum and then the river. Seneca's brother (*ibid.*) said that Claudius was taken to heaven on a hook.

*An vero servos nostros horum suppliciorum omnium metu dominorum benignitas vindicta una liberat; nos a verberibus, ab unco, a crucis denique terrore neque res gestae neque acta aetas neque vestri honores vindicabunt?*¹⁴⁵

He also describes the fate of the fugitive slave named Amatius (or Herophilus) who after the death of Caesar created a disturbance in Rome, plotting against Brutus, Cassius, and the Senate. Antony had the hook driven into him (*uncus impactus est fugitivo illi*).¹⁴⁶ Suetonius describes its use by Tiberius:

None of those punished [by Tiberius] were not cast down the Gemonian stairs and dragged with a hook [to the river], and in one day twenty were thrown down and dragged – among whom were women and children.

*Nemo punitorum non in Gemonias abiectus uncoque tractus, viginti uno die abiecti tractive, inter eos feminae et pueri.*¹⁴⁷

Due to Tiberius's cruelty, Suetonius remarks that some threatened to drag his body with the hook and cast it out on the Gemonian stairs (*alii uncum et Gemonias cadaveri minarentur*).¹⁴⁸ The people wanted Commodus's body to be dragged by the hook to the Tiber, according to the *Historia Augusta*.¹⁴⁹ Seneca uses the image several times, including one text in which he mentions crucifixions, executions by fire, and bodies that are dragged by the hook.¹⁵⁰ He envisions the hook as an element of Roman torture and crucifixion, an example of the spectacle of evil (*pompa mali*): "Think in this context of the prison and crosses and racks and the hook" (*Cogita hoc loco carcerem et cru-*

¹⁴⁵ Cic. Rab. Perd. 5.16. On Cicero's transformation of the *arbor infelix* into crucifixion in this oration, cf. chapt. 1 § 1.6.

¹⁴⁶ Cic. Phil. 1.2.5. Cp. Cic. Att. 12.49.2, Appian Bell. civ. 3.1/1-3.3/9 (II, 293,5-295,14 Mend./Vier.), V. Max. 9.15.1 (Herophilus, *equarius* [horse doctor] or *ocularius* [eye doctor], the MSS vary). Some of his followers were crucified (Appian Bell. civ.3.3/9), but according to V. Max. 9.15.1 Amatius/Herophilus was executed in the *carcer* (dungeon). Liv. Per. 116 calls him *Chamates, humillimae sortis homo* (a man of lower social standing).

¹⁴⁷ Suet. Tib. 61.4. Cp. Tacitus, Ann. 5.9.2 for Sejanus's boy and girl executed and thrown down the stairs.

¹⁴⁸ Suet. Tib. 75.1. Cp. Suet. Vit. 17 where Vitellius is killed by numerous stab wounds on the Gemonian stairs and then dragged off to the Tiber by the hook (*tandem apud Gemonias minutissimis ictibus excarnificatus atque confectus est et inde unco tractus in Tiberim*).

¹⁴⁹ SHA Commodus (Aelius Lampridius) 17.4, 18.5, 6, 19.1-7.

¹⁵⁰ Sen. Ep. 82.3: A person who lies in perfumes is as dead as a man dragged by the hook (*Puto, aequae qui in odoribus iacet, mortuus est quam qui rapitur unco*), Ep. 92.35: It [the soul] says, "I am not frightened by the executioner's hook nor by the revolting mutilation of the corpse which is exposed to the scorn of those who would witness the spectacle" (trans. of Gummere, Seneca Ad Lucilium Epistulae Morales, 2.469-71; *Non conterret, inquit, me nec uncus nec proiecti ad contumeliam cadaveris laceratio foeda visuris*), Dial. 5.3.6 *cruces et circumdati defossis corporibus ignes et cadavera quoque trahens uncus* ([the consequences of anger include] crosses, bodies planted in the ground surrounded by fire, and also the hook dragging corpses).

ces et eculeos et uncum).¹⁵¹ Augustine describes two members of the Sullan party who were dragged using the hook (*Baebius et Numitorius unco tracti sparsis uisceribus interirent* [Baebius and Numitorius, dragged by the hook, with their innards scattered in all directions, died]).¹⁵² Florus seems to assume they had already been executed before they were dragged through the forum by the hook (*Baebium atque Numitorium per medium forum unci traxere carnificum*).¹⁵³ Propertius describes an individual with a hook fixed in his chin by love (*et bene cum fixum mento discusseris uncum* [and when you break into pieces the hook well fixed into your chin]).¹⁵⁴ This may imply that the hook was often placed in a corpse's chin.

1.4.7 The Place where Many Cadavers will be (*lex Puteolana* II.13)

Some of the corpses were denied burial, apparently at the discretion of the magistrate.¹⁵⁵ This is indicated by the hypothetical *si* (if) in II.13. Varro describes common burial pits:

Outside towns, [there were] puticuli "little pits" [named] from pits, because there people were buried, unless rather, as Aelius wrote, [they were named] "little pits" because cadavers thrown there rotted, for which there was a public place beyond the Esquiline hill. Accordingly Afranius, in a comedy, calls this "light pits," because from there they look up through the pits at light.

*Extra oppida a puteis puticuli, quod ibi in puteis obruebantur homines, nisi potius, ut Aelius scribit, puticuli quod putescabant ibi cadavera proiecta, qui locus publicus ultra Exquilias. Itaque eum Afranius putilucos in Togata appellat, quod inde suspiciunt per puteos lumen.*¹⁵⁶

¹⁵¹ Sen. Ep. 14.5. The hook may be a torture implement in this text. It clearly is in Ammianus Marcellinus 14.5.9 (*eculei uncosque parabat carnifex et tormenta* [the carnifex prepared racks, hooks, and other tortures]), 26.10.9 (*Carnifex enim et unci et cruentae quaestiones ... grassabantur* [for carnifex, hooks, and bloody interrogations ... raged]). Cf. L. A. de la Beaumelle, La torture dans les Res Gestae d'Ammien Marcellin, in: Institutions, société et vie politique dans l'Empire romain au IV^e siècle ap. J.-C. Actes de la Table ronde autour de l'oeuvre d'André Chastagnol (Paris, 20-21 janvier 1989), ed. M. Christol et al., CEFR 159, Rome 1992, 91-113, esp. 106.

¹⁵² Aug. Civ. 3.27.

¹⁵³ Flor. Epit. 2.9 (olim 3.21.14). He was torn apart by human hands (*inter manus laniatum*, *ibid.* 2.9 [3.21.26]). Luc. 2.119-21 also describes Baebius torn apart by the mob's hands.

¹⁵⁴ Prop. 4.1.139.

¹⁵⁵ On this issue, cf. Cook, Crucifixion and Burial, and concerning the red clothes and bells of the executioners, cf. Cook, Envisioning Crucifixion, 281-2.

¹⁵⁶ Varro L. 5.25. Cf. J. Bodet, Graveyards and Groves: A study of the Lex Lucerina, American Journal of Ancient History 11 (1986 [1994]), 1-133, esp. 81, 107. On the "public place" see *ibid.*, 81. Cp. Paul. Fest. (241,1-3 Lindsay) *Puticuli sunt appellati, quod vetustissimum genus sepulturae in puteis fuerit, et dicti puticuli, quia ibi cadavera putescerent* (they are called little pits, because the oldest form of burial was in pits, and they are called little pits, because there cadavers rotted).

Varro refers to his teacher Aelius Stilo and the comic playwright Afranius, and this shows that the “*puticuli* at Rome were in use already in the second century BC.”¹⁵⁷ Ps. Acro, in his comment on Horace’s remarks about the burial place outside the Esquiline for paupers (which Maecenas made into gardens), writes:

The cadavers of paupers or slaves used to be buried here; for this reason he mentioned “fellow slave.”

Common sepulchre: Executioners used to make pits in the via Esquilina, where they placed corpses.

*Pauperum uel seruorum cadauera hic olim sepeliebantur, nam ideo subdidit “conseruus” Commune s(epulcrum)] Soliti enim erant carnifices puteos in Esquilina uia facere, in quos corpora mittebant.*¹⁵⁸

Agennius Urbicus (ca IV-V C.E.) also is a witness for public graveyards for the poor and places for convicted criminals.

Public entities have suburban places designated for the funerals of the poor – which they call ‘places for funeral burnt offerings’. They also have places designated for the punishment of convicted criminals.

*habent et res p(ublicae) loca suburbana inopum funeribus destinata quae loca culinas appellant. Habent et loca noxiorum poenis destinata.*¹⁵⁹

Agennius, however, does not say that the cadavers were left to rot in the open. The magistrates in Puteoli also, apparently, had the right to allow crucified individuals to be buried. This is in accord with a provision in the *Digest* that is attributed to Augustus:

The corpses of those who were sentenced to die are not to be withheld from their relatives: the divine Augustus writes in the tenth book of his autobiography that he had observed this rule. Today, however, the corpses of executed people are buried as if permission had been asked for and granted, with some exceptions, especially when the charge was high treason. Even the bodies of those condemned to be burned at the stake can be claimed, obviously so that bones and ashes can be collected and buried.

Corpora eorum qui capite damnantur cognatis ipsorum neganda non sunt: et id se obseruasse etiam diuus Augustus libro decimo de vita sua scribit. Hodie autem eorum, in quos animadvertitur, corpora non aliter sepeliuntur, quam si fuerit petitus et permissum, et nonnumquam non permittitur, maxime maiestatis causa damnatorum. Eorum quoque cor-

¹⁵⁷ Bodel, Graveyards, 107. By early first century BC steps were taken to prohibit use of the area outside the Esquiline gate as a dumping ground for corpses (ibid., 50-1). Seventy five burial pits were found there between 1874 and 1885 by Rodolfo Lanciani (ibid., 4). The common burial area mentioned by Horace (S. 1.8.8-16) was probably south of the *puticuli* already mentioned. Maecenas’s estate covered over the area mentioned by Horace.

¹⁵⁸ Ps. Acro in Hor. S. 1.8.8-10 (BiTeu II, 94,17-20 Keller).

¹⁵⁹ Agennius Urbicus De controversiis agrorum (Corpus agrimensorum romanorum, BiTeu, 47,1-2 Thulin).

*pora, qui exurendi damnantur, peti possunt, scilicet ut ossa et cineres collecta sepulturae tradi possint.*¹⁶⁰

There are historical and fictional references to the burial of crucified bodies.¹⁶¹ The *lex* apparently does not make provision for allowing the corpses of the crucified to rot on their crosses.¹⁶²

1.5 Crucifixion in the Classical Jurists

In the texts below from the *Digest* of Justinian *furca* is used in comments attributed to jurists who lived in the third century. It is very clear from a text of the *PS* that Justinian's jurists replaced the word *crux* with *furca*.¹⁶³ One can demonstrate that no other Latin author (i.e., outside the *Digest*) uses *furca* as a word for the penal suspension of condemned criminals in either the Republic or the imperium before Constantine. The word could be used to describe executions in which an individual stood on the ground attached to a *furca* while being beaten to death.¹⁶⁴ The word (or rather its Greek counterparts) begins to be used in Byzantine texts for the form of penal suspension that Isidore described.¹⁶⁵ It is telling that the author of the *PS*, writing in the late third century, uses *crux* for penal suspension. The only case in which *furca* does occur in a text attributed to him is a text based *solely* on the *Digest*

¹⁶⁰ Ulpian de officio proconsulis 9 in Dig. 48.24.1. Trans. of J.-J. Aubert, Corpse Disposal, 145. Cp. Marcianus Publ. 2 in Dig. 48.24.2 and PS 1 in Dig. 48.24.3 (both permitting the burial of those who had been exiled or executed, respectively).

¹⁶¹ Jesus, Jehoḥanan ben Ḥagqol (chapt. 2 § 3.4.4), Philo Flacc. 83, Josephus B.J. 4.317, Petr. 112.5-8, [Quint.] Decl. maior. 6.9, Cic. Ver. 2.1.7.

¹⁶² Crucified bodies consumed by carrion: Pl. Mil. 372-3, Hor. Ep. 1.16.48, Sen. Con. 8.4.1, Luc. 6.543-9, Petr. 58.2, Apul. Met. 6.32, Juv. 14.77-78, Ps. Manetho Apotelesmatica 4.200, Prud. Peri. 11.65-6, J. and L. Robert, Fouilles d'Amyzon, 259-263, m. Yeb. 16:3, Semahot 2.11 (44b). The *lex Cumana* also made provision for burial and for torture (perhaps even crucifixion). Cf. Cook, Crucifixion as Spectacle, 85-92 and Castagnetti, *Le leges libitinariae* flegree, 203-9 (burial), 224-7 (tortures). *lex Cumana* A Col. I,1-2.13; II,2 (burial; 19-20 Castagnetti); B Col. I,6-7 *pro machina con[ductor] ... p[rae]stand[um] clavo reste calamo* For the instrument/platform/machine the contractor ... [must] / furnish with nail, rope, and cane (torture; 21 Castagnetti).

¹⁶³ PS 5.22.1 = Dig. 48.19.38.2 (where *furcam* is used for Paulus's *crucem*). Cf. § 1.7 below. Kuhn, Die Kreuzesstrafe, 732 also argues for the replacement of *crux* by *furca* in the *Digest* as does Brasiello, *Le repressione penale*, 263, 268. Cp. Oldfather, *Supplicium de More Maiorum* 53 n. 5, Zestermann, *Die Kreuzigung*, 351, Sárosi, *Kreuzigungsstrafe*, 210, and Castagnetti, *Le leges libitinariae* flegree, 53-6.

¹⁶⁴ Cf. intro. § 3.5 and chapt. 3 § 10.4. My searches of *furca* were on the Brepolis LLT A and B databases. Cp. ThLL VI/1.1609.59-1610.82, esp. 1610.52-69 s.v. *furca* (H. Rubenbauer). The only use for penal suspension is against the dogs in Plin. Nat. 29.57 (chapt. 1 § 3.3). An early use (529) is Theophanes Conf. a.m. 6024 (I, 184,4-7 de Boor) in chapt. 3 § 10.4. There is a wooden relief of the penalty from Egypt dating ca 400 (chapt. 3 § 10.4).

¹⁶⁵ Chapt. 3 § 10.4. Isid. Orig. 5.27.33-4 (OCT, vol. 1. n.p. Lindsay). Cf. intro. § 3.5.

and not on the excerpts in the *Lex romana Visigothorum*, which only use *crux*.¹⁶⁶ There is sufficient warrant to infer that all uses of *furca* in the following texts are substitutions for *crux*.

The jurist Callistratus, who lived during the era of Septimius Severus and Caracalla,¹⁶⁷ identified crucifixion as the extreme penalty (the *summum supplicium*):

The stages of capital punishments are more or less as follows. The extreme penalty is held to be condemnation to the cross [*furca*]. There is also burning alive; this, however, though deservedly included in the term “extreme penalty,” is yet regarded as following after the first, because this class of punishment was devised at a later time. Also there is beheading.

*Capitalium poenarum fere isti gradus sunt. Summum supplicium esse videtur ad furcam*¹⁶⁸ *damnatio. Item vivi crematio: quod quamquam summi supplicii appellatione merito contineretur, tamen eo, quod postea id genus poenae adinventum est, posterius primo visum est. Item capitis amputatio.*¹⁶⁹

He also describes the crucifixion of bandits:

The practice which has been approved by most authorities has been to fasten [or nail] notorious brigands to the cross [*furca*] in the place which they used to haunt, so that by the spectacle others may be deterred from the same crimes, and so that it may, when the penalty has been carried out, bring comfort to the relatives and kin of those killed in that place where the brigands committed their murders; but some have condemned these [criminals] to the beasts.

Famosos latrones in his locis, ubi grassati sunt, furca figendos compluribus placuit, ut et conspectu deterretur alii ab isdem facinoribus et solacio sit cognatis et adfinibus in-

¹⁶⁶ Dig. 48.19.38.1 = PS 5.21.A.2 (146 Seckel/Kübler). In their apparatus they write “*cruci Paul?*” (*cruci Paulus?*). The conjecture is confirmed by the complete absence of references to the use of *furca* as a device of penal suspension in any source outside the *Digest*. Cf. § 1.7 below.

¹⁶⁷ Dig. 1.19.3.2.

¹⁶⁸ *crucem* has probably been replaced by *furcam*. Cf. B. Santalucia, *Diritto e processo*, 249-50. On the replacement of cross by *furca* in the *Digest*, cf. Garnsey, *Social Status*, 128 (who agrees that 48.19.28.pr is an example). O. Lenel, *Paltingenesia Iuris Civilis*, vol. I, Leipzig 1889, 1.91 put a question mark after *crucem* in his note.

¹⁶⁹ Callistratus 6 De cognitionibus in Dig. 48.19.28.pr., *Digest* 4.365. R. Bauman, *Crime and Punishment in Ancient Rome* (London 1996) 151 identifies *furca* here with either binding to “the infertile tree” and being beaten to death or crucifixion. Cf. intro. § 3.5, 3.7. Brasiello, *La repressione penale*, 268 argues that *crux* has been replaced by *ad furcam damnatio* and that *capitis amputatio* (beheading) is an addition of Tribonianus (the expression occurs nowhere else in the *Digest*). Brasiello also (ibid., 266) interprets Callistratus to mean that *crematio* (burning) was originally the extreme penalty and later crucifixion took its place. Cf. also Kuhn, *Die Kreuzesstrafe*, 747 (*ad furcam* = *ad crucem*; interprets Callistratus to mean that crucifixion is older) and A. Nogrady, *Römisches Strafrecht nach Ulpian. Buch 7 bis 9 De officio proconsulis*, Berlin 2006, 134 (*furca* substituted for *crux*). The most natural interpretation of the syntax is that crucifixion is the older penalty.

*teremptorum eodem loco poena reddita, in quo latrones homicidia fecissent: nonnulli etiam ad bestias hos damnauerunt.*¹⁷⁰

Here the penalty of the *furca* [fork] is a clear substitution for cross (*crux*) in the original text.¹⁷¹ The verb *figere* (attach, nail) belongs naturally in a context of crucifixion (i.e., *cruci figere* [attach/nail to a cross]).

Ulpian (same era as Callistratus) describes a rescript of Hadrian which requires that the intention of a killer be examined in a trial.¹⁷² The fate of a slave who has committed murder is clear:

Therefore examine this, and if the intention of killing was present, sentence the slave guilty of homicide by the law with the extreme penalty.

Ergo hoc exquirite et si voluntas occidendi fuit, ut homicidam servum supplicio summo iure iubete affici.

Otto Lenel conjectured that the word after “extreme penalty” should be *crucis* (cross) instead of *iure* (by the law).¹⁷³ Ulpian also argued that decurions could not be sentenced to the cross (*crux*), which has been replaced by *furca* (fork) by Justinian’s jurists:

To begin with, decurions cannot be condemned to the mines or to the *opus metalli* [work of the mine] nor subjected to the cross [*furca*] nor burned alive.

*nam in primis decuriones in metallum damnari non possunt nec in opus metalli, nec furcae subici uel uiui exuri.*¹⁷⁴

For the crime of sacrilege, Ulpian mentioned the usual aggravated penalties, but with a different order:

I know indeed that many have been condemned to the wild beasts for sacrilege, some even burned alive, and others suspended on the cross [*furca*].¹⁷⁵

¹⁷⁰ Callistratus 6 De cognitionibus in Dig. 48.19.28.15. Trans. slightly revised of Digest 4.366. On the meaning of *figere* cp. Quint., Inst. 7.1.30 *ducem cruci fixum* (a general nailed to a cross).

¹⁷¹ Cf. P. Franchi de’ Cavalieri, Della furca e della sua sostituzione alla croce nel diritto penale romano, NBAC 13 (1907) 63-113, esp. 86. Cp. Callu, Le jardin, 335 (the *furca* is a fifth century phenomenon).

¹⁷² Part of the text is in Dig. 48.8.1.3.

¹⁷³ Lenel, Palingenesia 2.976. The excerpt, on the *lex Cornelia de sicariis*, is from Ulpian 7 De officio procon. in Coll. 1.6.4 (331 Kübler) who edits the text as: *si voluntas occidendi fuit, ut homicidam servum summo supplicio, id est cruce, iubete adfici. id est cruce* is a conjecture of Kübler. The MSS have *cum iure*. On the textual problem, cf. Kuhn, Kreuzesstrafe, 660.

¹⁷⁴ Ulpian 10 De officio procon. in Dig. 48.19.9.11. Lenel, Palingenesia 2.990 conjectures that *furcae* was *cruci* in the original text. Digest 4.362. According to Ulpian the difference between the mines and the work of the mine was the difference of the chains’ weight. Cf. Garnsey, Social Status, 133 (Dig. 48.19.8.6).

¹⁷⁵ Ulpian 7 De officio procons. in Dig. 48.13.7. Trans. modified of Digest 4.346. Cf. Garnsey, Social Status, 128 (on the substitution) and H. D. Jocelyn (Greek Poetry in Cicero’s

et scio multos et ad bestias damnassee sacrilegos, nonnullos etiam uiuos exussisse, alios uero in furca suspendisse.

The substitution of *crux* by *furca* in this text is confirmed by a comment of Lactantius on the sacrilege of Dionysius of Sicily:

And if any individual of lower rank should commit such a crime, scourges, fires, racks [torture horses], crosses are readily available, and whatever else enraged and furious people are able to invent.

*at si humilis quid tale [sacrilegium] commiserit, huic praesto sunt flagella ignes eculei cruces et quidquid excogitare iratis ac furentibus licet.*¹⁷⁶

Ulpian's student Modestinus included these punishments for desertion:

A man who has deserted to the enemy and has returned shall be tortured and condemned to the beasts or to the cross [*furca*], although soldiers suffer none of these [punishments].

*Is, qui ad hostem confugit et rediit, torquebitur ad bestiasque uel in furcam damnabitur, quamuis milites nihil eorum patiantur.*¹⁷⁷

Here *furca* has been probably substituted for *crux* and the deserter presumably lost his standing as "soldier" and became an "enemy."¹⁷⁸ See the comment of Paternus quoted above (§ 1.1) on the standing of traitors and deserters.

1.6 A Third Century Inscription

An inscription found in an ancient cemetery in Thessalonica probably dates to the third century C.E.¹⁷⁹

[from his own labors] which he purchased for 1500 denarii.

Whoever should wish to open [the tomb] or should place another corpse [within], this individual shall be subject to the risk of the cross, and his property [shall be liable for confiscation] to the treasury.

[----- ἐκ τῶν ἰδίων]
καμάτων, ὅν ἡγόρασεν
δηναρίων χειλίῳ
πεντακοσίῳ·

Prose Writing, YCS 23 [1973] 61-112, esp. 108) who argues that *in furca suspendisse* is a "Christian alteration" of a text that refers to crucifixion.

¹⁷⁶ Lact. Inst. 2.4.21.

¹⁷⁷ Modestinus 4 De poenis in Dig. 49.16.3.10. Digest 4.407. Ulpian calls him his student in Dig. 47.2.52.20. On the replacement of cross in this text, cf. Garnsey, Social Status, 128.

¹⁷⁸ Brasiello, La repressione penale, 262. Cp. Castagnetti, *Le leges libitinariae*, 55.

¹⁷⁹ AE 2003, 1590 = SEG 53, 633. M. Sève (AE 2003, 1590) mentions II C.E. as a possibility, but thinks that the relief supports a third century date. The editio princeps is D. Nalpan-tes, Ανασκαφή στὸ οἰκόπεδο τοῦ Μουσείου Βυζαντινοῦ πολιτισμοῦ στὴ Θεσσαλονίκη. Ταφὲς καὶ εὐρήματα, Athens 2003, 113-114, plates 33b-d, 56-7 (inv. BE 197 [ΑΓ 3004/1]). The text of SEG 53, 633 is adopted below. vv represents blank spaces in the inscription. In this section, I have adapted material from my A Note on SEG 53, 633: Crucifixion in Imperial Thessalonica, Early Christianity 2 (2011) 387-390.

[Relief of a rider with an individual on the right who faces the rider]

ὁς ἂν δὲ βουλευθῇ ἀνῦξε ἢ ἕτερον πτωμα κατα<θ>έσει, τοῦτον αὐτὸν μὲν σταυροῦ ὑποκίστε¹⁸⁰ κινδύνου, νν τὰ δ' ἐκίνου τῷ ταμείῳ.

The inscription is unique because it specifies the form of death envisioned for the guilty offender. Demetres Nalpantes is aware of no other similar inscription that includes a warning of death.¹⁸¹ The famous Nazareth inscription, however, does threaten death for individuals who disturb tombs by destroying them or by displacing the corpses buried within: εἰ δὲ μή, τοῦτον ἐγὼ κε/φαλῆς κατάκριτον ὀνόματι / τυμβωρυχίας θέλω γενέσθαι (If anyone does so, however, it is my will that he shall suffer capital punishment on the charge of tomb-violation).¹⁸²

Late in the second century criminal penalties were applied to the crime of tomb-violation in imperial law.¹⁸³ The PS specifies:

Those guilty of violating tombs, if they remove the bodies or scatter the bones, will suffer the supreme penalty if they be of the lower orders; if they be more reputable, they are deported to an island. Otherwise the latter will be relegated and the former condemned to the mines.

*Rei sepulchrorum violatorum, si corpora ipsa extraxerint vel ossa eruerint, humilioris quidem fortunae summo supplicio adficiuntur, honestiores in insulam deportantur. Alias autem relegantur aut in metallum damnantur.*¹⁸⁴

The extreme penalty in the PS could be crucifixion, burning or beheading.¹⁸⁵ Before the late second century an action for pecuniary damages was common, and the Thessalonica inscription also specifies confiscation of the violator's property (or perhaps that of the estate of the corpse that the violator places in the tomb).¹⁸⁶ The inscription threatening crucifixion for anyone who defiles

¹⁸⁰ This word should be read as ὑποκεῖσθαι. Cf. AE 2003, 1590. The stone-cutter has used a ligature for τε. For a similar use of the infinitive see TAM III, 254, in which an individual forbids both the opening of his family's tomb and burial of another corpse within. He concludes with this warning: ἐπεὶ ὁ πειράσας ὑποκεῖσθαι αὐτὸν τυμβωρυχίας (for the one who attempts it shall be liable for the crime of tomb-violation).

¹⁸¹ Nalpantes, Ἀνασκαφή, 113, n. 182.

¹⁸² SEG 8, 13. Trans. of B. Metzger, The Nazareth Inscription Once Again, in: New Testament Studies: Philological, Versional, and Patristic, Leiden 1980, 75-92, esp. 77.

¹⁸³ In a rescript (Ulpian *Ad edictum praetoris* 25 in Dig. 47.12.3.7) of Septimius Severus (193-211 C.E), "provincial governors are to take severe action against those who despoil corpses, especially if they do so with armed force; if, in the manner of brigands, they do such things armed, they suffer the death penalty; if without arms, they are sentenced to the mines" (*Adversus eos, qui cadavera spoliunt, praesides severius intervenire, maxime si manu armata adgrediantur, ut, si armati more latronum id egerint, etiam capite plectantur, ut divus Severus rescriptit, si sine armis, usque ad poenam metalli procedunt*). Digest 4.300.

¹⁸⁴ Dig. 47.12.11 = PS 5.19A.1. Digest 4.301. Cp. PS 1.21.5.

¹⁸⁵ See § 1.7 below.

¹⁸⁶ Nalpantes, Ἀνασκαφή, 114 argues that ἐκίνου indicates the property to the corpse, while the editors of AE 2003, 1590 and SEG 53, 633 think the reference is to the violator's

the tomb assumes that the cross was familiar to the inhabitants of Thessalonica in the late second or third century.

1.7 *Pauli Sententiae*

The *Sentences of Paulus* were compiled toward the end of the third century or the beginning of the fourth.¹⁸⁷ The text defines the extreme penalties to be the cross, burning, and beheading (*Summa supplicia sunt crux crematio decollatio*).¹⁸⁸ *PS* specifies the extreme penalty (*summum supplicium*) for the following criminals: arsonists; the “corrupt attendants” (*corrupti comites*) who help an individual successfully seduce a boy, woman, or girl; slaves who counterfeit money without the knowledge of their master; those of the lower orders (*humilioris quidem fortunae*) guilty of tomb violation; slaves who consult soothsayers or astrologers about the health of their masters; those who administer abortifacients or love potions that result in the death of a woman or man who has taken the remedies; and those who are familiar with magic arts.¹⁸⁹

property. On the development of the laws against tomb violation, cf. E. Wesenberg, *Der strafrechtliche Schutz der geheiligten Gegenstände*, Breslau 1912, 94-7, F. de Zulueta, *Violation of Sepulture in Palestine at the Beginning of the Christian Era*, JRS 22 (1932) 184-97, esp. 193, O. N. Emmanouelides, τὸ δίκαιο τῆς ταφῆς στὸ Βυζάντιο, *Forschungen zur byzantinischen Rechtsgeschichte* 3; Athens 1989, 399-485 (the development in Roman and Greek law). Cf. also A. Parrot, *Malédiction et violations des tombes*, Paris 1939, 152-5, E. Gerner, *Tymborychia*, ZSRG.R 61 (1941) 230-75, esp. 268-72.

¹⁸⁷ Cf. Schiller, *Roman Law*, 46-8. The Leiden fragment dates to the late third or early fourth century. Cf. *Pauli sententiarum. Fragmentum Leidense* [Cod. Leid. B.P.L. 2589], ed. and comm. G. G. Archi, M. David, E. Levy, R. Marichal, and H. L. W. Nelson, Leiden 1956, 57. A more extensive discussion may be found in D. Liebs, *Römische Jurisprudenz in Africa. Mit Studien zu den pseudopaulinischen Sentenzen*, Berlin 1993, 33-8 (with a reconstruction of the text in 125-210). Below I have used the ed. of *Iurisprudentiae anteiustinianae reliquias* vol. 2/1, ed. E. Seckel and B. Kübler, BiTeu, Leipzig 1911.

¹⁸⁸ *PS* 5.17.2. In *Callistratus* 6 De cogn. in Dig. 48.19.28.pr. the list of *summa supplicia* begins with the cross [*furca*], then *crematio* (burning) and *capitis amputatio* (beheading) as in Paulus. Cf. Nogrady, *Römisches Strafrecht*, 134. The next capital penalties are *metalli coercitio* (sentencing to the mines) and *in insulam deportatio* (deportation to an island).

¹⁸⁹ *PS* 5.3.6 (arson), not in the *Digest*, although it does include Ulpian 8 De officio procons. in Dig. 47.9.12.1 = Coll. 12.5.1 (371-2 Kübler) where *bestiae* (wild animals) are the penalty for an individual of lower rank (*humiliore loco*) who commits arson in a city. *PS* 5.4.14 (seduction) = Dig. 47.11.1.2. *PS* 5.12.12 (counterfeiting), not in the *Digest*, but in Ulpian 7 De officio procons. in Dig. 48.10.8, those who adulterate coins are, if freedmen, sentenced to the beasts and if slaves sentenced to the extreme penalty (*si quidem liberi sunt, ad bestias dari, si serui, summo supplicio adfici debent*). *PS* 5.19A.1 (tomb violation) = Dig. 47.12.11 (§ 1.6 above). *PS* 5.21.4 (slaves consulting soothsayers about a master's health), not in the *Digest*, although Ulpian 7 De officio procons. in Coll. 15.2.1-6 (379-81 Kübler) discusses astrologers and prophets and specifies (Coll. 15.2.3 [380 Kübler]) a capital penalty (*capite puniti sunt*) for consulting one about the emperor's health (*de principis salute*). *PS*

Crucifixion was included among many penalties for sedition:

Those who are responsible for sedition and disturbance when a mob has been excited are, according to their social standing, either crucified [lifted to the cross] or thrown to beasts or deported to an island.

*Auctores seditionis et tumultus vel concitatores populi pro qualitate dignitatis aut in crucem tolluntur aut bestiis obiciuntur aut in insulam deportantur.*¹⁹⁰

The equivalent text in the *Digest* has altered *in crucem* [to the cross] to *in furcam* [to the fork]. This is probably due to the abolition of crucifixion by Constantine.¹⁹¹ Consequently one can reasonably assume that all the occurrences of “cross” in juristic texts prior to Constantine have been altered to *furca*. In *PS*, all those guilty of violating the *lex Cornelia de sicariis et veneficiis* (Cornelian law against assassins and poisoners) are subject to these punishments:

For all such crimes committed by those of higher rank, capital punishment has been decreed, while those of lower rank shall be lifted up on the cross or thrown to the beasts.

*Ob quae omnia facinora in honestiores poena capitis vindicari placuit, humiliores vero in crucem tolluntur aut bestiis obiciuntur.*¹⁹²

Slaves who consulted soothsayers about their master’s wellbeing were crucified, according to *PS*:

And if slaves consulted [them] concerning their masters’ life, they were punished by the supreme punishment, that is the cross ...

*Quod si servi de salute dominorum consuluerint, summo supplicio, id est cruce,*¹⁹³ *adficiuntur ...*¹⁹⁴

Those of lower rank who falsified wills, forged coins, or adulterated coins impressed with the image of the emperor were sentenced to the mines or crucified (*humiliores autem aut in metallum dantur aut in crucem tolluntur*).¹⁹⁵ Magicians were subject to crucifixion under the *lex Cornelia*:

5.23.14 (giving potions that result in death) = Dig. 48.19.38.5. PS 5.23.17 (magic arts), not in the *Digest*.

¹⁹⁰ PS 5.22.1 = Dig. 48.19.38.2 (where *furcam* is used). Digest 4.367 modified.

¹⁹¹ On this point, cf. Nogrady, *Römisches Strafrecht*, 133.

¹⁹² PS 5.23.1 = Coll. 1.2.2, 8.4.2 ([329, 359 Kübler]; the Collatio has *subiciuntur* (thrown to) instead of *obiciuntur* in both texts. This has no equivalent in the *Digest*. Cp. PS 5.25.1 (the *lex Cornelia testamentaria*). Stockbauer, *Kunstgeschichte*, 31 has a convenient list of crimes for which individuals were crucified.

¹⁹³ The MSS have *cruci* here.

¹⁹⁴ PS 5.21.4. Paulus’s text concerning soothsayers and astrologers (*vaticinatores, mathematici*) has no corresponding material in the *Digest*. Cf. D. Liebs, *Römisches Recht in Africa im 2. Jahrhundert n. Chr. nach der Apologie von Apuleius*, in: *Literatur und Recht. Literarische Rechtsfälle von der Antike bis in die Gegenwart*, Göttingen 1996, 25–36, esp. 33.

¹⁹⁵ PS 5.25.1 (the *lex Cornelia testamentaria*). Two sentences (5.25.1a–b) of this law are preserved in Dig. 48.10.19, but the preceding text is omitted, which specifies the punish-

Who performs or causes to be performed impious or nocturnal rites, to bewitch, transfix, or bind anyone, is either fixed to a cross or thrown to the beasts ... It is decided that those who know the art of magic are subject to the extreme penalty, that is, to be thrown to the beasts or to be affixed to the cross. The magicians themselves [i.e., the ones who practice the trade] are burned alive.

*Qui sacra impia nocturnave, ut quem obcantarent defigerent obligarent, fecerint faciedave curaverint, aut cruci suffiguntur aut bestiis obiciuntur ... Magicae artis conscios summo supplicio adfici placuit, idest bestiis obici aut cruci suffigi. Ipsi autem magi vivi exuruntur.*¹⁹⁶

According to *PS* the *lex Fabia*, which was against kidnapping, making a free person into a slave, and so forth, prescribed crucifixion for those of lower rank:

Therefore those of lower rank are sent to the mines or crucified; those of higher rank are deprived of half their property and exiled perpetually.

*Ideoque humiliores aut in metallum dantur aut in crucem tolluntur, honestiores adempta dimidia parte bonorum in perpetuum relegantur.*¹⁹⁷

The comment on this text of *PS* in the *Collatio*, after a long quotation of Ulpian's treatment of the crime, is:

It must, however, be noted that according to recent constitutions, kidnappers are to be capitally punished, as befits the heinousness of the crime, though Paulus, indeed, in the passage cited above, also says that criminals of this type should be sentenced to crucifixion or the mines.

*sciendum tamen est ex nouellis constitutionibus capitali sententia plagiatores pro atrocitate facti puniendos: quamuis et Paulus relatis supra speciebus crucis et metalli huiusmodi reis inrogauerit poenam.*¹⁹⁸

Those who desert to the enemy are suspended on the *furca*, according to *PS*, which is probably again a substitute for "cross" since the text appears only in the *Digest* and not in the other sources of the *Sententiae*.

Deserters to the enemy or those who betray our counsels are either burned alive or suspended on the cross [*furca*].

ments. D. Grodzynski, Tortures mortelles et catégories sociales. Les *summa supplicia* dans le droit romain aux IIIe et IVe siècles, in: Du châtement dans la cité, 361-403, esp. 366 notes that this passage best shows the work of the sixth century compilers of the *Digest*.

¹⁹⁶ PS 5.23.15, 17. 5.23.14, against those who produce abortifacients or aphrodisiacs (with bad intention), is adopted by Dig. 48.19.38.5 but 5.23.15, 17 are omitted. On 5.23.15, 17, cf. Liebs, Römische Recht ... nach der Apologie, 34.

¹⁹⁷ PS 5.30B.1 = Coll. 14.2.2 (377 Kübler). Justinian's jurists omitted Paulus's text in their treatment of the *lex Fabia* (Dig. 48.15.1-7).

¹⁹⁸ Coll. 14.3.6 ([378 Kübler] after Ulpian 9 De offic. procons. in Coll. 14.3.1-5 [377-8 Kübler]). Trans. of M. Hyamson, Mosaicarum et romanarum legum collatio with Introduction, Facsimile and Transcription of the Berlin Codex, Translation, Notes and Appendices, London et al. 1913, 127. The text of Ulpian is not in Dig. 48.15.

*Transfugae ad hostes uel consiliorum nostrorum renuntiatores aut uiui exuruntur aut furcae suspenduntur.*¹⁹⁹

1.8 The Edictum de accusationibus

In the *Theodosian Code* an edict (*Edictum de accusationibus*) attributed to Constantine describes the fate of slaves who accuse their masters:

In the case of slaves also, or of freedmen who attempt to accuse their masters or patrons, respectively, or to report them to the authorities, the assertion of such atrocious audacity shall be repressed immediately at the inception of the guilty act itself, through the sentence of the judge, a hearing shall be denied such slave or freedman, and he shall be affixed to the cross.

*In servis quoque vel libertis, qui dominos aut patronos accusare aut deferre temptaverint, professio tam atrocis audaciae statim in admissi ipsius exordio per sententiam iudicis comprimatur ac denegata audientia patibulo adfigatur.*²⁰⁰

The text of the edict with the threat of crucifixion survives in two inscriptions.²⁰¹ The *Code* attributes the edict to Constantine, but there is a contradiction between the dates in the superscript and subscript.²⁰² Constantine would probably not have “ordained crucifixion as a punishment after his conversion to Christianity.”²⁰³ Simon Corcoran has recently made a strong case for ascribing the edict to a set of decrees on the *Caesariani* authored by Galerius in the summer of 305. Although he admits “the argument is complex and lacks

¹⁹⁹ Paulus 5 Sent. in Dig. 48.19.38.1 = PS 5.21a.2 and cf. Tarruntius Paternus 2 De re militari in Dig. 49.16.2.7. On the substitution see Garnsey, *Social Status*, 128 and Brasiello, *La repressione penale*, 262. On *transfugae* see Castagnetti, *Le leges libitinae* flegree, 55-6. For use of *suspendere* with crucifixion cp. Sen., *Dial.* 6.20.3 *cruces ... capite quidam conuersos in terram suspendere* (crosses ... some hang their victims with head down to the ground). See also Col. 10.1.1.349 *Nocturnas crucibus uolucres suspendit* (he hung night-flying birds on crosses). Cf. chapt. 1 § 2.3 and 2.12.

²⁰⁰ Codex Theodosianus (CTh) 9.5.1 (443,7-444,10 Mommsen/Krueger). Trans. of Pharr, *The Theodosian Code*, 230.

²⁰¹ CIL III, 12043 = InscCret I (Lytos in Crete), 188 and CIL V, 2781 (copied in Padua in XVI-XVII CE, but whose provenance is unknown and which is now lost). There are five other examples of part of the edict in inscriptions, but none contain the reference to crucifixion (cf. S. Corcoran, *Galerius's Jigsaw Puzzle: The Caesariani Dossier*, *AntTard* 15 [2007], 221-250, esp. 225). All are from Galerius's part of the empire.

²⁰² T. D. Barnes, *Three Imperial Edicts*, ZPE 21 (1976), (275-281) 275-277 (dated the edict to 1 Jan. 314). The superscript reads “Constantine to Maximus, prefect of the city” (*ad Maximum p[raefectum] u[rbi]*) and the subscript attributes the date to the “kalends of January, in the years of the consulship of Volusianus and Annianus” (1 Jan. 314). The only Maximus who was prefect of the city during those years served 1 Sept. 317 to 13 Sept. 323, so Barnes amended the text to *ad Maximum p[raefectum] p[raetori]o* (praetorian prefect). Barnes now accepts Corcoran's proposed dating of 305 (idem, *The Young Constantine as Judged by his Contemporaries*, in: Konstantin der Grosse, Trier 2006, 14).

²⁰³ Barnes, *Three Imperial Edicts*, 276.

some crucial struts to assure its stability,” the text of the *Edictum de accusationibus* shares so many characteristics with the other *Caesariani* decrees (the first of which is securely dated to 305) that one can no longer confidently ascribe the edict to Constantine.²⁰⁴ The *Code* was valid in the west from 25 May 438 and in the east from 1 Jan. 439.²⁰⁵ Some of the laws were no longer valid, and one assumes based on the evidence of Aurelius Victor, Sozomen, and authors to be quoted below that the provision in the edict concerning crucifixion was one of these.²⁰⁶

1.9 CIL VIII, 18261 = CLE 278

An inscription found in the forum of Lambaesis in Numidia probably refers to Constantine’s victory over the usurper Maxentius (28 Oct. 306 – 28 Oct. 312).²⁰⁷ A vicarius in Africa, L. Domitius Alexander, had proclaimed himself Augustus (ca summer/autumn of 308).²⁰⁸ C. Ceionius Rufus Volusianus²⁰⁹ was sent by Maxentius to quell the revolt, which probably ended in the summer of 310.²¹⁰ “Maxentius’ subordinates then conducted a purge of known

²⁰⁴ Corcoran, Galerius’s Jigsaw Puzzle, 247. An example: the last four lines of the Padua copy (CIL V, 2781) comprise part of a *Caesariani* letter (cf. also AE 1995, 1478b from Ephesus that is the same text) that may be part of the first *Caesariani* edict (AE 1995, 1478a [titulature which includes *Gal*], c, and d [all from Ephesus], and the clearly dated IG II², 1121 = IG II-III 13249 (2008) [Athens] and CIL III, 12134 [Tlos, also dated]). If one accepts the unity of AE 1995, 1478a-d (similar marble and lettering), then the argument becomes persuasive.

²⁰⁵ A. J. Boudewijn Sirks, *The Theodosian Code. A Study*, Friedrichsdorf 2007 v, 188-189, 196. He does not comment on crucifixion. On the promulgation of the code, cf. R. Salway, *The Publication of the Theodosian Code and Transmission of its Text: Some Observations*, in: *Société, économie et administration dans le Code Théodosien*, ed. S. Crogiez-Pétrequin and P. Jaillette, Villeneuve d’Ascq, 2012, 21-61. On the revision of *Gesta senatus* 8 (*Theodosiani libri*, 4 Mommsen/Meyer) *VIII k. Ian. to Iun.* (25 May 438), cf. L. Atzeri, *Gesta senatus Romani de Theodosiano publicando. Il Codice Teodosiano e la sua diffusione ufficiale in Occidente*, Freiburger Rechtsgeschichtliche Abhandlungen 58, Berlin 2008, 129-32.

²⁰⁶ On the valid and obsolete laws in the *Code*, cf. Sirks, *The Theodosian Code*, 623 with reference to CTh 1.1.5.

²⁰⁷ These dates are from Kienast, *Römische Kaisertabelle*, 291. He was Augustus beginning in April? 307. Cf. the author’s *Maxentius’s Crosses*: CIL VIII, 18261, VigChr 68 (2014) forthcoming.

²⁰⁸ On the rebellion, cf. Aur. Vict. *Caes.* 40.17-18 and Zosimus 2.12.1-3, 2.14.2-3. For the date of rebellion, see Barnes, *New Empire*, 14 (308-309?). Cf. Kienast, *Römische Kaisertabelle*, 293, PLRE I, Alexander 17.

²⁰⁹ PLRE I Volusianus 4.

²¹⁰ Cf. P. Salama, *Les voies romaines de Sitifis à Igilgili. Un exemple de politique routière approfondie*, *Antiquités africaines* 16 (1980) 101-34, esp. 118, with ref. to idem, *Les trésors maxentiens de Tripolitaine, Libya antiqua* 3-4 (1966-67) 21-27. Scholars have, however, variously dated the revolt between April of 308 and 28 Oct. 310 (when Volusianus be-

and suspected supporters of Alexander in which many were killed and those who escaped with their lives were stripped of their property.”²¹¹ Alexander was strangled (*Alexander a Constantini exercitu iugulatur*) after being besieged in Cirta (which had consequently fallen into ruins).²¹²

Zosimus lists the depredations of Maxentius:

When the war had come to this end, there was an opportunity for informers to accuse as partisans of Alexander all those in Libya who were noble or who were wealthy. And there was no sparing for any: some were executed and deprived of the property that they owned <...>.

τοῦτο δὲ τοῦ πολέμου δεξαμένου τὸ τέλος, εὐρυχωρία τοῖς συκοφάνταις ἐδόθη πάντας ὡς εἰπεῖν, ὅσοι κατὰ τὴν Λιβύην ἦσαν γένους ἢ περιουσίας εὖ ἔχοντες, ὡς τὰ Ἀλεξάνδρου φρονήσαντας ἐνδεικνύναι. Καὶ φειδῶ παντάπασις ἦν οὐδεμία, τῶν μὲν ἀναιρουμένων τε καὶ τὰς οὐσίας <ᾶς> ἔτυχον ἔχοντες ἀπολλύντων <...>²¹³

In 1882 Alexandre Poulle published an inscription in a rough dactylic hexameter from Lambaesis that had been “recently discovered,” which probably reflects the events described above.²¹⁴ It was found in the forum near the large temple (its present location is unknown). It is a limestone statue base one meter high and .4 meters wide and thick. The letters are 3 centimeters high. It has been republished several times with improved readings.²¹⁵

Constantine, thus we ascertain that your men, always angry against the evil, are angry against evil princes; thus we are in peace, because in this Genius the province recognizes itself. In effect he removes the crosses and the cruel battles of the tyrant.²¹⁶

came *praefectus urbi*). Cf. V. Aiello, Costantini, Lucio Domizio Alessandro e Cirta: un caso di rielaborazione storiografica, in: L’Africa romana. Atti del VI Convegno di studio, Sassari, 16-18 dicembre 1988, ed. A. Mastino, Sassari 1989, 179-96, esp. 179 (with much bibliography).

²¹¹ T. D. Barnes, *Constantine and Eusebius*, Cambridge 1981, 33.

²¹² Epit. de Caesaribus 40.6 and Aur. Vict. Caes. 40.28. Aurelius Victor also remarks that Cirta was restored and renamed Constantina after Maxentius’s fall.

²¹³ Zosimus 2.14.3-4 (CUFr I, 86,12–17 Paschoud).

²¹⁴ A. Poulle, *Nouvelles inscriptions de Thimgad, de Lambèse et de Marcouna*, Recueil des notices et mémoires de la société archéologique du département de Constantine 22 (1882) 331-406, esp. 394-6. He gives the height of the stone as .86m.

²¹⁵ I. Schmidt in CIL VIII, 18261, and F. Bücheler, *Carmina latina epigraphica*, Leipzig 1895, § 278 (supp. by E. Lommatsch in 1930), M. Eure Arena, ed., *Praeteritae carmina vitae. Pietre e parole di Numidia*, Rome 2011, § 23. There is a squeeze of the inscription available on the website of the CIL in Berlin http://cil.bbaw.de/dateien/cil_view.php?KO=KO0024342 (last accessed 24 March 2013).

²¹⁶ The square brackets indicate lacunae and the angular brackets indicate a correction. The parentheses are an abbreviation in the text. CIL VIII, 18261. Trans. based on that of J.-P. Callu, *Le Jardin des supplices au bas-empire*, in: *Du châiment dans la cité*, 313-59, esp. 358-9. Aur. Vict. Caes. 40.23 describes Maxentius’s death during the “sixth year of his tyranny” (*tyrannidis anno sexto*). Cp. CIL VI, 1139 = ILS 694 (*de tyranno ... rempublicam ultus*

*Constant[i]ne / tuos sic semper / malis iratos /
cernimus Augg(ustis) / malis et pace / potimur /
cum et in hoc G[e]/nio sese provin/cia monst[re]t /
nam po[ni]<t>²¹⁷ ille / cruces et proe/lia saeva tyranni*

After the defeat of Maxentius, the colony of Lambaesis also dedicated an inscription to Constantine as the *Providenti/ssimo et / cum orbe / suo reddi/ta liberta/te triumph(h)ant(i) domino nostro* (to the most providential one and our lord who triumphs with his world with liberty restored).²¹⁸ Although the poetic inscription from Lambaesis does not provide evidence that Constantine abolished crucifixion, it does show that he or his governor used the penalty differently than Maxentius, assuming Maxentius is the “tyrant” of the text. The elite of the town would not have protested the crucifixion of slaves involved in the insurrection, so one can assume that Maxentius had used the penalty against some of the elite.²¹⁹ The inscription also does not show that Constantine (or his governor) actually used crucifixion in Lambaesis either. It is silent on that point.

1.10 The Abolition of Crucifixion

Scholars generally argue that Constantine ended the practice of crucifixion, although there are some who dissent. Constantine probably wanted to end the penalty, and references to officially sanctioned crucifixions virtually disappear after his death until the Muslim conquest of Spain. Although it is not a perfect analogy, there are some similarities between Constantine’s approach to crucifixion and his desire to end gladiatorial games (particularly *damnatio ad ludum*), which took three generations of Christian emperors to stop. The references to the emperors’ position on crucifixion indicate that it was probably no longer officially practiced in western society after Constantine’s death. Even if one is skeptical about Constantine’s abolition of the penalty, the sources are good mirrors of the historians’ own age.

1.10.1 Aurelius Victor

Constantine stopped crucifixion according to Aurelius Victor, who probably wrote soon after 360:²²⁰

est [he (Constantine) avenged the republic from the tyrant]), which is the arch of Constantine, dedicated in 313. On the topic, cf. T. Grünewald, *Constantinus Maximus Augustus. Herrschaftspropaganda in der zeitgenössischen Überlieferung*, *Historia Einzelschriften* 64, Stuttgart 1990, 64–71.

²¹⁷ A correction for the stone carver’s *i*.

²¹⁸ CIL VIII, 2721 = ILS 689.

²¹⁹ I thank Professor Werner Eck for this observation.

²²⁰ He was the governor of *Pannonia Secunda* in 361 (cf. A. H. McDonald and A. J. S. Spawforth, *Aurelius Victor*, *Sextus*, ³OCD, 222 who believe he wrote “after 360”). Soon after 360: A. Chastagnol, *Emprunts de l’Histoire Auguste aux Caesares d’Aurelius Victor*,

Finally, Constantine received all his enemies with honour and protected them by allowing them to retain their properties, and was so conscious of his obligation that he was the first to abolish the long-established and utterly frightful punishment of crucifixion and the breaking of legs. Consequently he was regarded as a founder or as a god. The tortures inflicted by Licinius in the servile manner did not even make a limit of (i.e., were not confined to) the innocent and philosophers.

*Denique Constantinus cunctos hostes honore ac fortunis manentibus textit recepitque, eo pius, ut etiam vetus teterrimumque supplicium patibulorum et cruribus suffringendis prius removerit. Hinc pro conditore seu deo habitus. Licinio ne insontium quidem ac nobilium philosophorum servili more cruciatus adhibiti modum fecere.*²²¹

August Zestermann believed that the clause from *eo pius* to *removerit* was a later Christian interpolation.²²² Erika Dinkler-von Schubert has argued that the *hinc* (consequently) in the second sentence is syntactically out of place and would be better explained in combination with Victor's account of Constantine's foundation of Constantinople.²²³ Given the passage's panegyric tone and concern with a Christian theme, it is possible that Victor's source was Christian.²²⁴ This is not obvious, however. Julian wrote that Constantine's soldiers worshipped him as a god, and he does not relate this to

RPh 41 (1967) 85-97. H. W. Bird (Aurelius Victor: *De Caesaribus*, trans. with intro. and comm. by H. W. Bird, Liverpool 1994, xi-xii) argues that it was completed in the spring of 361 (because of the probable reference to the capture of Vadomarius in 42.17). Cf. *ibid.*, vii-xi on Victor's legal and administrative background.

²²¹ Aurelius Victor *De caesaribus* 41.4-5. Trans. of Bird, Aurelius Victor, 49 slightly modified whose rendition of *patibulorum* with "forked gibbet" is probably incorrect. *patibulum* was confused with *furca* in Isidore's time. The trans. of the last sentence is due to Professor Arthur Robinson and myself. Cf. intro. § 3.1, 3.5.

²²² Zestermann, *Die Kreuzigung*, 350.

²²³ E. Dinkler-von Schubert, *Nomen ipsum crucis absit* (Cicero, *Pro Rabirio* 5,16) *Zur Abschaffung der Kreuzigungsstrafe in der Spätantike*, *Gym.* 102 (1995) 225-241, esp. 229 with reference to Aurelius Victor *De caesaribus* 41.12 *condenda urbe* and Philostorgius *Historia ecclesiastica* 2.17 (GCS Philostorgius, 28,4-8 Bidez/Winkelmann): an accusation that Christians worship the statue of Constantine in Constantinople. The statue may have originally been Apollo (Helios), given the seven rays on the head. Cf. Malalas *Chronographia* 13.7 (CFHB 35, 245,81-246,82 Thurn) *ἑαυτῷ ἔσθησεν ἀνδριάντα, ἔχοντα ἐν τῇ κεφαλῇ αὐτοῦ ἀκτῖνας ἑπτὰ*). See G. Fowden, *Constantine's Porphyry Column: The Earliest Literary Allusion*, *JRS* 81 (1991) 119-131, esp. 125-129.

²²⁴ Zestermann, *Die Kreuzigung*, 350 thought *pius* in a pagan author was unacceptable. Dinkler-von Schubert, *Nomen ipsum crucis*, 229 refers to P. Dufraigne (Aurelius Victor, *Livre des césars*, CUFr, Paris 1978, xxxiii-iv) who argues that Victor's source is Christian because of his use of *pius*. Victor (*De caesaribus* 24.5), however, could use the word to describe Severus Alexander's duty with regard to the reverence due his mother Mammaea (*matrisque cultu, quae nomine Mammaea erat, plus quam pius*) and to describe Constantius's dutiful reverence for his father in 42.23 *cultu genitoris satis pius*. He had great admiration for Antonius whose *cognomen* was Pius (*De caesaribus* 15.1). There is consequently no need to understand *pius* as a Christian concept as the many entries for the word in the OLD s.v. *pius* also prove.

Constantinople or its statue. The mention of “founder” may be a reference to the law itself, although Victor uses no legal terminology.²²⁵ In addition, the reference to Licinius may well imply that Licinius crucified some philosophers. His use of *patibulum* instead of *crux* indicates the occasional interchangeability of the terms.²²⁶ Whether Victor used a Christian or pagan source, oral or written, he wrote within twenty-five years of Constantine’s death, and consequently his evidence should not be discounted. The conclusion to be made is this: Constantine wanted to end the practice of crucifixion, but Victor does not refer to an edict.

1.10.2 Ambrosiaster

Ambrosiaster, working in the early 380s in Rome, in the midst of an argument against fate, mentions Jael’s execution of Sisera (Judg 4:21):²²⁷

Now no one dies this way. And before people were affixed to the cross, now after the edict it remains prohibited.

*hoc modo nemo mortuus. et antea cruci homines figebantur, quod postea edicto prohibitum manet.*²²⁸

Although Ambrosiaster apparently does not know the emperor’s identity who issued the “edict,” he is still important as a witness for his own time.

²²⁵ Julian Oraciones 1.6 (CUFr 1/1, 18,9-10 Bidez). An anonymous panegyrist (pagan) notes of Constantine that “you must share some secret with that divine mind, Constantine, which has delegated care of us to the lesser gods and deigns to reveal itself to you alone” (*Habes profecto aliquod cum illa mente diuina, Constantine, secretum, quae delegata nostris diis minoribus cura uni se tibi dignatur ostendere*). Cf. Panegyrici Latini 12(9).2.5 (SCBO 272,14-16 Mynors). Trans. of C. E. V. Nixon and B. S. Rogers, *In Praise of Roman Emperors. The Panegyrici Latini. Introduction, Translation, and Historical Commentary*, Berkeley 1994, 296. Bird, Aurelius Victor, 190 also refers to the Christian view of Constantine as “the agent of God on earth” (τὴν ἐμὴν ὑπερεσίαν πρὸς τὴν ἑαυτοῦ βούλησιν ἐπιτηδείαν ἐζήτησέν τε καὶ ἔκρινεν) in *Vita Constantini* 2.28.2 (GCS Eusebius Werke 1/1, 60,7-8 Winkelmann) and *De laudibus Constantini* 1.6 (GCS Eusebius Werke 1, 199,1-3 Heikel). Autun (Panegyrici Latini 8[5].21.2) viewed Constantine as its second founder (*cum te rursus habeat conditorem*). An inscription (AE 1969/70 107) calls Constantine the “extender of his world, the founder of the Roman name” (*Propagatori orbis su[i] / Romani nominis conditori*). Cp. similar usages of *conditor* for Constantine in CIL VIII, 1179, 12524c, and AE 1933 86.

²²⁶ Cf. intro. § 3.1.

²²⁷ D. G. Hunter, 2008 NAPS Presidential Address. The Significance of Ambrosiaster, JECS 17 (2009) 1-26, esp. 5-13 on his *floruit* in the early 380s.

²²⁸ Ambrosiast. Qu. test. 115.67 De fato (CSEL 50, 341,46-47 Souter). Cp. A. Souter, *A Study of Ambrosiaster*, Cambridge 1905, 29 (who thinks this is a reference to Constantine) and J. Harries, *Law and Empire in Late Antiquity*, Cambridge 1999, 139: “whether or not it was also Constantine who formally abolished crucifixion in favour of hanging, the change over time to the more humane penalty is certain; the *furca*, gallows, on which death was instantaneous, replaced the protracted agonies of the cross.”

1.10.3 Augustine

Augustine, writing in the early fifth century, affirms that:

Although certainly among the ancients criminals used to be crucified, now no one is crucified. The cross is honored and finished. It is finished as a punishment, it abides in glory. In the place of penalties, it made the passage to the brows of emperors.

*Cum enim sub antiquis scelerati crucifigerentur, modo nullus crucifigitur. honorata est, et finita. Finita est in poena, manet in gloria. a locis suppliciorum fecit transitum ad frontes imperatorum.*²²⁹

In texts throughout the first fifteen years of that century, Augustine insists that crucifixion is no longer practiced.²³⁰

1.10.4 Sozomen and Cassiodorus

Sozomen, writing in the fourth decade of the fifth century, describes Constantine's putative decree to end crucifixion from a Christian perspective:

He held the divine cross in special reverence both because of the powers it gave him for his victory in the battles against his enemies and because of the divine sign that appeared to him concerning it [the cross]. He annulled by law from use in the courts the former punishment of crucifixion that was customary among the Romans.

πάνυ γὰρ πολὺ σέβας εἶχε τοῦ θείου σταυροῦ ἕκ τε τῶν ὑπαρχάντων αὐτῷ τῇ ἐνθένδε ῥοπῇ ἐν ταῖς κατὰ τῶν ἐναντίων μάχαις καὶ ἐκ τῆς συμβάσεως αὐτῷ

²²⁹ Aug. Psal. 36.2.4 (PL 36.366 = CChr.SL 38, 350,19-22 Dekkers/Fraipont). On the date (etc.) for the *Ennarationes* (ca 392-418), cf. M. Cameron, *Ennarationes in Psalmos*, in Augustine through the Ages. An Encyclopedia, ed. by A. D. Fitzgerald, Grand Rapids, MI/Cambridge, UK 1999, 290-296 and CPL § 283.

²³⁰ E. Volterra, Sull'uso delle *Sententiae* di Paolo presso i compilatori del *Breviarium* e presso i compilatori giustiniani, in Atti del congresso internazionale di diritto romano (Bologna e Roma XVII-XXVII Aprile MCMXXXIII) Bologna 1, Pavia 1934, 35-165, esp. 57 refers to Aug. Sermon 88.8 (P. Verbraken, Le sermon LXXXVIII de saint Augustin sur la guérison des deux aveugles de Jéricho, RBen 94 [1984]: [71-101] 82,206-208 = PL 38.543) *prius [Christus] honoravit crucem in hoc saeculo; ut terrarum principes credentes in eum prohiberent aliquem nocentium crucifigi* (first he [Christ] honored the cross in this age so that the rulers of the world who believe in him forbade any criminal to be crucified). The text includes a reference to a cultic sign that Jesus's servants, including kings, "wear on their brow" (*etiam reges in fronte nunc portant* [82,209-210 Verbr.]). Verbraken (ibid., 73) dates it ca 400. Dinkler-von Schubert, *Nomen ipsum crucis*, 231 mentions Eu. Io. 8:15-18 (CChr.SL 36, 326,55-6.58-60 Willems [cf. ibid., vii where he dates the first 54 tractates between 16 March-23 Nov. 413]) *nihil erat tunc in carne intolerabilius, nihil est nunc in fronte gloriosius ... denique modo in poenis reorum non est apud Romanos; ubi enim domini crux honorata est, putatum est quod et reus honoraretur, si crucifigeretur* (nothing was more intolerable in the flesh, now nothing is more glorious in the brow ... now finally among the Romans it is not used for the punishment of the guilty; where the cross of the Lord is honored, it is believed that a guilty individual would be honored if he were crucified).

περὶ τούτου θεοσημείας. ἀμέλει τοι πρότερον νενομισμένην Ῥωμαίοις τὴν τοῦ σταυροῦ τιμωρίαν νόμῳ ἀνείλε τῆς χρήσεως τῶν δικαστηρίων.²³¹

Cassiodorus in the second half of the sixth century had Sozomen's account translated into Latin for his western readers who probably found the assertion about Constantine to be credible, especially due to crucifixion's disappearance as a punishment.²³² Sozomen precedes his account with a comment about Constantine's veneration of the Lord's day because of the resurrection and his veneration of Good Friday because of the crucifixion. He follows the text quoted with the claim that Constantine had the sacred symbol (τὸ θεῖον σύμβολον) placed on coins and statues. A law of July 3, 321 confirms Sozomen's claim about Sunday.²³³ His claim about the "sacred symbol" can be indirectly verified.

1.10.5 Constantine and Christian Symbolism

Dinkler-von Schubert argues that neither Constantine's abolition of crucifixion nor Sozomen's claim about Christian symbolism on the coins can be confirmed. The law does not appear in the *Code of Theodosius*.²³⁴ The cross was especially venerated in the time of Theodosius II, which "tendentiously influenced" Sozomen, according to her thesis, especially since Constantine did not put the cross on his coins and statues.²³⁵ Although Constantine did not put the cross on coins, he (or rather his officials) did put the christogram (the chi rho combined) and staurogram (tau rho combined) on various coins, and this helps confirm Sozomen's account:

christogram: ☩ staurogram: †

²³¹ Sozomen H.E. 1.8.13 (GCS Sozomenus, 19,14-18 Bidez/Hansen). Sozomen mentions in his dedication an event that can be dated to 443 as having happened in the recent past (H.E. praef. 13 [3,19-21 B./H.]). Cf. G. F. Chesnut, *The First Christian Histories: Eusebius, Socrates, Sozomen, Theodoret, and Evagrius*, *Théologie historique* 46, Paris 1977, 193.

²³² Cass. Hist. trip. 1.9.13: *Denique supplicium crucis, quod primitus apud Romanos erat in usu, lege prohibuit* (CSEL 71, 27,101-3 Jacob/Hanslik). A. Cameron dates it shortly before 553 (Cassiodorus Deflated, review of J. O'Donnell, Cassiodorus, JRS 71 [1981] 183-186, esp. 185).

²³³ CTh 2.8.1 (Constantine to Helpidius, who was *vicarius* of Rome). Dinkler-von Schubert, *Nomen ipsum crucis*, 232. On Helpidius, cf. Barnes, *Constantine and Eusebius*, 313.

²³⁴ Dinkler-von Schubert, *Nomen ipsum crucis*, 232-233, 237. She also argues that CTh 2.8.1 does not include any Christian argumentation (with the result that Sozomen exaggerates and makes a chronological error). The Christian foundation for the feast day is not made explicit until a law of 3 Nov. 386 (CTh 2.8.18 [87,1-8 Momm./Kr.]), an edict of Gratian, Valentinian and Theodosius to Principius praetorian prefect. This is an argument from silence. Constantine need not have explicitly expressed his motivations.

²³⁵ Dinkler-von Schubert, *Nomen ipsum crucis*, 237-238. She includes useful illustrations of the cross on coins from 400/404 to 455. Socrates H.E. 1.17.8 (GCS Sokrates, 57,3 Hansen) claims there was part of the true cross in Constantine's statue in Constantinople.

A bronze coin of Constantinople (ca 327) depicts a *labarum* (a standard) consisting of the christogram placed on top of a flag with three medallions. It pierces a serpent. The legend of the coin is *SPES PUBLIC(A)* (Hope of the people). Patrick Bruun interprets it to mean the “glory of the army constituting the glory of the empire, the death of the tyrant (*SPES PUBLIC*) constituting liberty for all.” The tyrant was Licinius.²³⁶ Although Bruun notes that the distinctly Christian character of the christogram was a later development,

Quite apart from the personal religious conviction of Constantine the sign was diffused as the victorious symbol of the emperor ... In so far as religious tolerance implied a victory for Christianity, intrinsically connected with Constantine and the battle of the Milvian Bridge, the sign became a symbol of that victory and finally assumed an exclusively Christian significance.²³⁷

The staurogram appears in some silver coins of Antioch (*solidi*).²³⁸ Bruun describes “the Christian sign [the staurogram] as a distinguishing mark, the mark of Constantine, whereas the star was a mark of the Caesars.”²³⁹ Although Bruun concludes that “Christian symbolism has no place on the coins of Constantine,” he does admit that the christogram, staurogram and other signs “appear to be hovering between paganism and Christianity.” Christians had to employ old signs to express their faith.²⁴⁰ The general population may have not understood the monograms, but Christians probably did.²⁴¹ That is

²³⁶ P. M. Bruun, *The Roman Imperial Coinage. Constantine and Licinius. A.D. 313-337* 7, London 1984, 567 and the coin itself is *ibid.*, Constantinople nr. 19, p. 572 Pl. 18. Cp. Constantinople nr. 26, p. 573. Cf. also P. M. Bruun, *The Christian Signs on the Coins of Constantine*, *Arctos* N.S. 3 (1962) 5-35, esp. 21-23 (with reference to Constantine’s statement that Licinius was a serpent in Eusebius *Vita Constantini* 2.46.2 [67,13-15 W.]). In a silver medallion from Ticinum there is a christogram on the emperor’s crown (*Roman Imperial Coinage* 7, *Ticinum* # 36, p. 364). In Bruun’s interpretation: “the emperor has adopted his own victorious sign as an emblem of power” (*The Roman Imperial Coinage* 7, 63). He dates the medallions to 315 and notes their limited numbers (*The Christian Signs*, 31-32).

²³⁷ Bruun, *Roman Imperial Coinage* 7, 62-63.

²³⁸ Bruun, *Roman Imperial Coinage* 7, Antioch nr. 98 (Pl. 24), 99 p. 695. For the christogram and staurogram on many other coins of Constantine, cf. also Bruun, *The Christian Signs*, 33-34. Bruun admits (*ibid.*, 35) the connection of the signs with the “victory at Ponte Molle.” J. L. Creed (*Lactantius, De mortibus persecutorum*, OECT, ed. and trans. by J. L. Creed, Oxford 1984, 119) argues persuasively that the sign Lactantius describes is the staurogram (*Mort.* 44.5 [62 Creed]).

²³⁹ Bruun, *The Christian Signs*, 30-31.

²⁴⁰ Bruun, *Roman Imperial Coinage* 7, 64.

²⁴¹ Both the chi rho (later “christogram” in Christian use) and tau rho monogram (“staurogram” in Christian use) had pre-Christian meanings as abbreviations. Cf. L. W. Hurtado, *The Staurogram in Early Christian Manuscripts: The Earliest Visual Reference to the Crucified Jesus?*, in *New Testament Manuscripts: Their Texts and Their World*, ed. by T. J. Kraus and T. Nicklas, *Texts and Editions for New Testament Study* 2, Leiden/Boston 2006, 207-226, esp. 209-210 (the tau rho combination could stand for “three” or “thirty” for example). The staurogram (*ibid.*, 212-214) appears in P^{45} (200-250 CE), P^{66} (ca 200 CE), and P^{75}

all Sozomen seems to assume, and he presumably related them to the “divine sign” (τῆς συμβάσεως αὐτῷ περὶ τούτου θεοσημείας) that appeared to Constantine before his victory at the Milvian Bridge.

1.10.6 Crucifixions in Aurelius Victor and Ammianus Marcellinus

In ca 334 C.E. after Constantine’s execution of one of his sons (Crispus),

... suddenly Calocerus, commander of the imperial camel herd, insanely seized the island of Cyprus and pretended to rule. He was tortured to death like a slave or robber, as was right and proper, ...

... *repente Calocerus magister pecoris camelorum Cyprum insulam specie regni demens capessiverat. Quo excruciato, ut fas erat, servili aut latronum more ...*²⁴²

(ca 200 CE) as abbreviations in the middle of the words σταυρος (cross) and σταυρωθ (crucify). Hurtado concludes that it may be the earliest visual reference to the crucifixion of Jesus (ibid., 223-224). Beginning with Constantine the staurogram appears as a free-standing device. The christogram probably appears in inscriptions before the time of Constantine. Cf. W. H. Buckler, W. M. Calder and W. W. M. Cox, *Asia Minor*, 1924. III.—Monuments from Central Phrygia, JRS 16 (1926) 53-94, nr. 183, A.12-3 (Emircik) σὺν ‘Ρουβῇ μεγάλῳ / θ[εοῦ] [“blurred but recognizable” christogram] θεράποντι (with Roube servant of the great God Christ [christogram]) ca III CE, 200 (= W. M. Ramsay, *The Cities and Bishoprics of Phrygia*, Being an Essay of the Local History of Phrygia from the Earliest Times to the Turkish Conquest 1/2, Oxford 1897, 386 § 232) and Buckler, ibid., nr. 200 Ἀυρ. Γλυκων[ίδης] / Εὐμενεὺς [christogram] ἐπίσ[κοπος] ... (Aurelius Glykonides of Eumeneia, [christogram] bishop ...) “probably between 250 and 300.” W. Tabbernee, *Montanist Inscriptions and Testimonia: Epigraphic Sources Illustrating the History of Montanism*, Macon, GA 1997), 222 accepts this dating for Glykonides (the last quarter of the century), but prefers to transcribe the christogram in the text and not interpret it as “Christian” or “Christ.” It nevertheless is a Christian use of the monogram. A monogram (Christian use) which is a combination of iota and chi appears in Ramsay, *Cities and Bishoprics*, 1/2, 526, nr. 371, which based on nr. 370 and 372 can be dated ca 270 CE. Cf. Ramsey’s additional comments in *Cities and Bishoprics*, 1/2, 502, 739. B. Levick, S. Mitchell, J. Potter and M. Waelkens, eds., *Monumenta Asiae Minoris Antiqua* 10, JRS Monographs 7, London 1993, nr. 52 (Appia in Phrygia) has a christogram over a funerary inscription dedicated by Ἀὐρ. Ἀμμία (Aurelia Ammia) to her husband and daughter and is dated between 250 and 300 by the editors. R. Leeb, *Konstantin und Christus: Die Verchristlichung der imperialen Repräsentation unter Konstantin dem Großen als Spiegel seiner Kirchenpolitik und seines Selbstverständnisses als christlicher Kaiser*, *Arbeiten zur Kirchengeschichte* 58, Berlin 1992, 39-40 does not consider the evidence from Asia Minor.

²⁴² Aur. Vict. *Caes.* 41.11-12. Trans. of Bird, *Aurelius Victor*, 50. Cf. *Excerpta Valeriana (origo Constantini) pars prior* 6.35 (BiTeu 10.4-5 Moreau/Velkov), *Oros. Hist.* 7.28.30 (CUFr *Histoires* 3, 25 Arnaud-Lindet); Hieronymus, *Chronicon* A.D. 334 (GCS Eusebius *Werke* 7, 233, 16 Helm); Philostorgius H.E. *append.* 7.11a (207, 22-25 Bid./Wink.) = Theophanes, *Chronographia* (BiTeu *Chronographia* 1, 29.28-31 de Boor): καυθεῖς ζῶν (burned alive by Dalmatius in Tarsus) (references from Bird, ibid., 192 who thinks Dalmatius, the new Caesar, had Calocerus crucified). Cf. also Polemius Silvius *Laterculus* 62-63 (MGH *Auctores antiquissimi* 9, 522 Mommsen). Aubert, *A Double Standard*, 111 also ar-

This was probably a crucifixion and in itself is no proof that Constantine did not want to end the procedure. Ammianus Marcellinus states that the imperial *comes*, Aemilianus, and some tribunes were “wickedly crucified” (*patibulis scelestis suffixis*) by the Persians after Amida was taken (359).²⁴³ In Pirisabora (363) Julian found the crucified corpses of those who were kin to the man who had betrayed the city to the Romans.²⁴⁴ During Valentinian’s rule, his commander Jovinus was angered when some of his troops (the *Ascarii*) crucified a king of the Alemanni (366) after a battle in Gaul near Châlons-sur-Marne.²⁴⁵ He determined that the tribune had committed the deed through soldierly passion:

Angered at this, he decided to punish the tribune who had ventured to take this action without consulting higher authority; and he would have condemned him to death, if it had not been clear from convincing evidence that the cruel deed had been committed through passion to which soldiers are prone.

*Ideoque iratus in tribunum animadvertere statuit ausum hoc inconsulta potestate superiore fecisse, eumque damnasset, ni militari impetu commissum facinus atrox documentis evidentibus constitisset.*²⁴⁶

Although Ammianus does not openly say that crucifixion was “illegal,” he does imply that the tribune’s actions were out of order (*inconsulta*) since he had not consulted higher commanders. Jovinus’s anger “is best explained by assuming that the humiliating execution of the Alamannic leader would be seen by the Alamanni as a provocation” and not necessarily as an expression of humanitarian concern.²⁴⁷ Ammianus’s expression for the crucifixion as *facinus atrox* can also be understood to mean “cruel crime” or “cruel out-

gues the death was a crucifixion. On the chronological problems (and the inconsistency between Aurelius Victor (326 C.E.) and Theophanes), cf. Barnes, *New Empire*, 15-6.

²⁴³ Ammianus Marcellinus *Res gestae* 19.9.2. Cf. N. H. Baines, *Constantine’s Successors to Jovian: And the Struggle with Persia*, in: *CMH* 1 (1911), 55-86, esp. 72.

²⁴⁴ Ammianus Marcellinus *Res gestae* 24.5.3 *corpora uidit suffixa patibulis multa necessitudinum eius, quem prodidisse ciuitatem Pirisabora rettulimus supra*. His name was Mamersides (24.2.21). Cf. J. den Boeft, J. W. Drijvers, D. den Hengst and H. C. Teitler, *A Philological and Historical Commentary on Ammianus Marcellinus XXIV*, Leiden 2002, xiii, xvi, 155.

²⁴⁵ Ammianus Marcellinus *Res gestae* 27.2.9 *regem hostilium agminum cum paucis captum ab Ascariis ... suffixum patibulo*. Cf. N. H. Baynes, *The Dynasty of Valentinian and Theodosius the Great*, in: *CMH* (1911) 1, 218-249, esp. 222-223.

²⁴⁶ Ammianus Marcellinus *Res gestae* 27.2.9. Trans. of Ammianus Marcellinus, *Roman History* 3, LCL, ed. and trans. by J. C. Rolfe, Cambridge 1939, 11.

²⁴⁷ J. den Boeft, J. W. Drijvers, D. den Hengst and H. C. Teitler, *A Philological and Historical Commentary on Ammianus Marcellinus XXVII*, Leiden 2009, 28-29.

rage.”²⁴⁸ The crucifixion was unsanctioned by a proper authority such as Jovinus.²⁴⁹

1.10.7 Firmicus Maternus: Crucifixion and Gladiatorial Games

Firmicus Maternus (ca 334-337)²⁵⁰ describes the fate in store for criminals born in the seventh segment of Cancer:

But if the moon and Mars are both in aspect to the ascendant, robbers act with cruel ferocity. But these will either be raised to a cross or will perish by some public punishment.

*quodsi Lunam et horoscopum Mars radiatione aliqua aspexerit, latrocinantes crudeli feritate grassantur. Sed hi aut in crucem tolluntur, aut publica animadversione peribunt.*²⁵¹

Firmicus included a panegyric of Constantine in this work and did not mention his approach to crucifixion or gladiatorial games.²⁵² Certain star crossed individuals (Andromeda is the culprit) will either be thrown to the wild beasts, crucified, or sentenced to the gladiatorial games or perpetual chains.²⁵³ Constantine, in a law of Aug. 1, 315 decreed “wild beasts at the first public spectacle” (*servus quidem vel libertate donatus bestiis primo quoque munere obiciatur*) for kidnappers who are slaves or freedmen.

But if he is a freeborn person he shall be given to a gladiatorial show under this general rule, namely, that before he does anything whereby he may be able to defend himself, he shall be destroyed by the sword.

*liber autem sub hac forma in ludum detur gladiatorium, ut, antequam aliquid faciat, quo se defendere possit, gladio consumatur.*²⁵⁴

Constantine, however, in 325 (the same year as Licinius’s execution) apparently forbade the existence of gladiators:

Bloody spectacles displease Us amid public peace and domestic tranquility. Wherefore, since We wholly forbid the existence of gladiators, You shall cause those persons who, perchance, on account of some crime, customarily sustained that condition and sentence, to serve rather in the mines, so that they will assume the penalty for their crimes without shedding their blood.

²⁴⁸ Cf. OLD, s.v. *facinus*. Ammianus Marcellinus Res gestae 14.5.6 *facinus impium* can be translated as “impious crime” and 30.1.1 (2, 131,2 S./J.-K./U.) *dirum in oriente committitur facinus* can also be translated as “dire crime.”

²⁴⁹ Jovinus, as *magister equitum* (master of the horse, Ammianus Marcellinus Res gestae 26.5.2) apparently expected to be consulted.

²⁵⁰ D. S. Potter, Firmicus Maternus, Iulius, in ³OCD, 598 and chapt. 1 § 3.6.

²⁵¹ Firmicus Maternus Mathesis 8.22.3 (BiTeu Mathesis 2, 327,6-9 Kroll/Skutsch/Ziegler). For other references to crucifixion in Firmicus, cf. chapt. 1 § 3.6.

²⁵² Firmicus Maternus Mathesis 1.10.13-14.

²⁵³ Firmicus Maternus Mathesis 8.17.2: *feris obici aut in crucem tolli ... facient in ludum dari, vel perpetuis stringi vinculis catenarum*.

²⁵⁴ The *lex Fabia* in CTh 9.18.1 (Constantine to Domitius Celsus, vicarius of Africa). Trans. of Pharr, Theodosian Code, 240. Cp. Constantine in 9.40.2 (to Eumelius, vicar of Africa, ca March 31, 316) on not branding (in the face) people condemned to the arena or mines.

*Cruenta spectacula in otio civili et domestica quiete non placent. Quapropter, qui omnino gladiatores esse prohibemus eos, qui forte delictorum causa hanc condicionem adque sententiam mereri consueverant, metallo magis facies inseruire, ut sine sanguine suorum scelerum poenas agnoscant.*²⁵⁵

A probable inference is that Constantine no longer believed individuals should be sentenced to death by gladiatorial combat, since he forbade the very existence of gladiators.²⁵⁶ Valentinian and Valens (Jan. 15, 365) decreed an

²⁵⁵ CTh 15.12.1 (an edict of 1 Oct. 325 to Maximus, praetorian prefect in Beirut). Trans. of Pharr, Theodosian Code, 436. Cp. Eusebius, Vita Constantini 4.25.1 (128,27-28 W.) which is stronger because Eusebius claims Constantine forbade gladiatorial games completely. J. Gascou, Le rescrit d'Hispellum, MAH 79 (1967) 609-659, esp. 649-650 thinks Constantine only forbade criminals to be sentenced to become gladiators, not the games themselves. In his rescript to Hispellum (CIL XI, 5265 [333-335 CE]), he allowed gladiatorial games there and in the town of Vusinae (Volsinii). Consequently, Gascou (ibid., 650) disagrees with Pharr's translation (also arguing that the *qui ... prohibemus* is left incomplete and needs a *iubemus inseruire* or *iubemus te facere inseruire* instead of *facies inseruire*) as do E. Soler and F. Thelamon, Les jeux et les spectacles dans l'Empire romain tardif et dans les royaumes barbares, Mont-Saint-Aignan 2008, 53. The text as it stands can be interpreted as an abolition of condemnation to death in gladiatorial parodies (cf. Soler and Thelamon, ibid., 39-40 who note that the word *munus* does not appear in Constantine's law and who think that the gladiators in question are not the professionals, the *auctorati*; nevertheless from Constantine to Constans [CTh 15.12.2] the emperors wanted to make the institution of the gladiator disappear). In agreement with Pharr's translation is G. Ville, Les jeux des gladiateurs dans l'empire chrétien, MAH 72 (1960) 273-335, esp. 314, although he argues that the games were not abolished until the appearance of the Theodosian Code in 438 and that Constantine's edict was inapplicable from the beginning. Cf. ibid., 315-316 for evidence that the games continued throughout the fourth century. P. Veyne, Païens et chrétiens devant la gladiature, MEFRA 111 (1999) 883-917, esp. 910-911 thinks Constantine forbids gladiators absolutely and sends combatants that belong to the imperial treasury to the mines and not to the spectacle organizers (the law does not mention spectacles given by magistrates or patrons); the law was too ambitious to be effectively applied and ultimately contradictory because complete abolition stands next to a measure that is concerned with a particular category of condemned individuals.

²⁵⁶ Cf. Barnes, Constantine and Eusebius, 53 who argues that the games continued in Rome long after the "prohibition." The interpretation in CJ 11.44 is clear: It quotes the CTh 15.12.1 from *Cruenta spectacula* to *prohibemus eos* with the obvious result that for Justinian's jurists Constantine absolutely forbade the existence of gladiators. D. Potter (Constantine and the Gladiators, CQ 60 [2010] 596-606) argues that Constantine only forbade the *damnatio ad ludum* (condemnation to death by combat in the amphitheatre) and not the existence of gladiatorial games. Constantine's statement about *cruenta spectacula*, however, indicates his aversion to the games, and *eos* clearly is the object of *facies inseruire* in the text as it stands, wherever the comma is placed (i.e., before or after *eos*). According to Ulpian De officio proconsulis 8 in Coll. 11.7.4 (369 Kübler) *damnatio ad ludum* was not necessarily fatal (*non utique consumuntur*), since after five years individuals could be manumitted (*pilleari*) and after three could be released from gladiatorial service (*rudem induere eis permittitur*).

end to punishment by the arena for Christians convicted of crimes.²⁵⁷ Gladiatorial games were still in place in 399, and combat with wild animals in the arena lasted until the sixth century.²⁵⁸ It is probable that Firmicus uncritically preserved pre-Constantinian astrological traditions about crucifixion despite Constantine's abolition of the penalty.²⁵⁹ He also preserved earlier astrological traditions about sentencing to death by gladiatorial combat even though Constantine wanted to suppress it also.

1.10.8 *Pacatus and Sidonius Apollinaris: Crucifixion and Rhetoric*

In a panegyric of Theodosius I by Pacatus (389), the orator claims with regard to the vanquished usurper Maximus: "Did he not rather fear the fire, the sheets of metal, the cross, the sack and whatever else he deserved?" (*Non potius ignem laminas crucem culleum et quidquid merebatur timebat?*).²⁶⁰ With regard to a lie of Maximus, the orator poses a rhetorical query to Theodosius: "And after this response did you not order him to be put up on the cross, to be sewn up in a sack, or to be torn to pieces?" (*Et post hanc tu uocem non illum in crucem tolli, non culleo insui, non discerpi in frusta iussisti?*).²⁶¹ Maximus

²⁵⁷ CTh 9.40.8 (to Symmachus, prefect of the city). Cp. CTh 9.40.11 (9 April 366). On the date cf. Pharr, Theodosian Code, 256.

²⁵⁸ Cf. the Easter Table of Beneventum in the entry for 399: *templa idolorum demolita sunt et gladiatorum ludi tulti* (the temples of idols were demolished and gladiatorial games were abolished) in J. Geffcken, *Der Ausgang des griechisch-römischen Heidentums*, Heidelberg 1929, 307 and A. Demandt, *Geschichte der Spätantike: Das römische Reich von Diocletian bis Justinian 284–565 n. Chr.*, 2. ed., Munich 2008, 356. Cp. the references to *venationes* in VI C.E. in T. E. J. Wiedemann, *Emperors and Gladiators*, London/New York 1995, 154 (e.g. Novella 105.1, Justinian to Strategius, count of the imperial largesses, ex consul and patrician in 536 C.E., seven days of consular processions including a day for *venationes*: *cum bestiis pugnantes homines* [men fighting with beasts]). Wiedemann (ibid., 158, 164) notes that in the 430s or 440s "contorniates (medallions commemorating the holders of consulships) depict gladiators in combat ..." Cf. A. Alföldi, *Die Kontorniaten*, 1.122, no. 176 [*Reparatio muneris feliciter* (may the restoration of the *munus* have a happy end, Wiedemann's trans.), 2. Plate LXIII, 11 (a gladiator standing over a fallen victim, from the later years of Honorius); 1.126, no. 204, 2. Plate LXVII, 9 (men, wild animals depicted over the Circus Maximus and underneath a gladiatorial pair, from the time of Valentinian III, 434/5 or 444/5). The same contorniates are described in ibid. 1.176 no. 431 and 1.174 no. 415 respectively. The contorniates also depict *venationes* (1.122, n. 177–1.124, n.189).

²⁵⁹ With regard to a tradition mentioning crucifixion in the astrologer Rhetorius (ca VI–VII C.E.), F. Cumont wrote, "*Haec ante aetatem scripta Constantini magni, qui crucis supplicium suppressit ..., nihil cogitans transcripsit Rhetorius.*" Cf. *Codices Parisini* (CCAG 8/4, ed. by F. Cumont, Brussels 1921) 200, n. 1 – a comment on Rhetorius, *Capitula selecta* (ibid., 200,12–13). Cf. chapt. 3 § 7.6. Sáy, *Kreuzigungsstrafe*, 208–10, unaware of the redating of the *Edictum de accusationibus*, argues that Firmicus's evidence indicates Constantine probably abolished the penalty between 334 and 337.

²⁶⁰ *Panegyrici Latini* 2(12).42.1. Trans. of Nixon and Rogers, *The Panegyrici Latini*, 509.

²⁶¹ *Panegyrici Latini* 2(12).44.1. Trans. of Nixon and Rogers, *The Panegyrici Latini*, 511.

was not crucified, but beheaded.²⁶² Given the texts from Ambrosiaster and Augustine, one should not interpret Pacatus's reference to crucifixion to mean that it was still in use. In a rhetorical flourish, Sidonius Apollinaris wrote a father (Proculus) concerning his son who had left him and taken refuge with the bishop that he had told him he deserved disinheritance, crucifixion, the sack and the other penalties for parricides (*dignum abdicatione cruce culleo clamans ceterisque suppliciis parricidalibus*).²⁶³ In Roman law the punishment associated with parricide was the sack, which included drowning, and not crucifixion.²⁶⁴ Joan Bellès, a recent commentator on the *Epistulae*, argues, "Naturally Sidonius's reference to all these punishments is purely rhetorical."²⁶⁵ It may all be something of a joke. Proculus, of course, was still alive.

1.10.9 Victor Vitensis Bishop of Byzacena

During the reign of the Vandal king Huneric there was a persecution of Catholic Christians by the Arians. Huneric's persecution of 484 was a "reign of terror" in the words of Jonathan Conant, but it probably began soon after he took power in 477.²⁶⁶ Huneric sponsored a meeting between the two

²⁶² Panegyrici Latini 2(12).45.2. Cf. Philostorgius HE 10.8 (129,6-7 Bid./Wink.) and other references in Nixon and Rogers, *The Panegyrici Latini*, 511. Cp. Zestermann, *Die Kreuzigung*, 351.

²⁶³ Sidonius *Epistulae* 4.23 (MGH.Auctores antiquissimi 8, 74,1-2 Krusch). The first seven books of the *Epistles* were collected in 477 (J. D. Harries, Sidonius Apollinaris [Gaius Sollius Modestus Apollinaris Sidonius], ³OCD, 1404-1405). On Proculus, cf. Proculus 4, PLRE 2, 923-925, which does not identify him with the poet of *Epistulae* 9.15.1 vv. 43-46 (169-170 Krusch) and which dates the letter ca 470/471. Cf. A. Arjava, *Paternal Power in Late Antiquity*, JRS 88 (1998) 147-165, 154, with reference to Libanius *Orationes* 62.24-25 (BiTeu Libanii opera 4, 358,5-359,8 Foerster) and other texts, for a discussion of the rarity of "punitive disinheritance" in late antiquity.

²⁶⁴ Modestinus *Pandectae* 12 in Dig. 48.9.9.pr. Constantine decreed the sack filled with serpents (*culleus*) for parricides in CTh 9.15.1 on Nov. 16, 318 (to Verinus, *vicarius* of Africa).

²⁶⁵ Sidoni Apollinar, *Lletres*. II. Llibres IV-VI, ed. and comm. by J. Bellès, Barcelona 1998, 77 (with many references to the traditional punishment by the *culleus*). In agreement is D. Zittel, *Zwischen Emotion und Normerfüllung – Verwandtschaftliche Beziehungen in den Schriften spätantiker gallischer Autoren*, *Klio* 91 (2009) 162-195, 179 with reference to M.-B. Bruguère, *Littérature et droit dans la Gaule du Ve siècle*, Paris 1974, 328 "... en fait il énumère ces menaces comme s'il parlait de l'ogre à un enfant désobéissant: c'est une exagération qui relève du domaine de la plaisanterie."

²⁶⁶ J. Conant, *Staying Roman. Conquest and Identity in Africa and the Mediterranean*, 439-700, Cambridge et al. 2012, 172. Procopius notes that Huneric's reign initiated a persecution against the Christians (*De bellis* 3.8.3). In 3.8.4 Procopius affirms that Huneric burned and used other kinds of penalties against the Catholics. I thank Professor Boudewijn Sirks for directing me to Victor's text.

groups in Carthage that was to be held on 1 Feb.²⁶⁷ Victor poses this question to the Arians about their (i.e., the Vandals') persecution given their expressed desire for dialogue:

If an episcopal discussion was necessary, why the hangings, why the fires, why the iron claws, why the crosses? Why did the serpentine race of Arians invent such kinds of tortures against the innocent of the sort that not even Mezentius²⁶⁸ himself discovered?

*Si disputatio necessaria fuerat episcopalis, quare suspendia, quare ignes, quare ungulae simul et cruces? quare Arrianorum serpentina proles contra innocentes genera talia tormentorum inuenit, qualia nec ipse Mezentius exquisiuit?*²⁶⁹

Presumably the Vandals chose to imitate Roman practice and crucified some of the Catholics. Huneric closed the churches on 7 Feb. 484, and they did not open until 10 Aug. 494 in Gunthamund's reign (*Quae ecclesiae fuerunt clausae annos X mensibus VI diebus V. Hoc est ab VIII anno Henerici, id est ex die VII Idus Februarii, usque in X annum regis Guntamundi in die IIII Idus Augusti ...*).²⁷⁰ Victor's evidence shows that crucifixion was probably used sporadically by the Vandals in Africa, but not as an established practice of law in the West.

1.10.10 *Lex Dei quam praecipit dominus ad Moysen* or *Collatio*

The date of this compilation of the writings of the classical Roman jurists and "imperial enactments drawn from the Codex Gregorianus and Codex Hermogenianus" is difficult to determine. Scholars have offered dates ranging from 296/302 to 438 C.E.²⁷¹ The title of the three surviving MSS is: *The Law of God which God Prescribed to Moses*.²⁷² Simon Corcoran, noting that the date and authorship of the text are disputed, argues that it should be attributed

²⁶⁷ Cf. T. Howe, *Vandalen, Barbaren und Arianer bei Victor von Vita*, Hamburg 2007, 353 and *Vict.-Vit. Historia persecutionis Africanae provinciae* 2.39, 3.4 (CSEL 7, 39.7-18; 73, 15-6 Petschenig).

²⁶⁸ A bloodthirsty Etruscan king of Roman legend. Cf. T. Cornell, *Mezentius* OCD⁴, 951 and *Verg. A.* 7.648, 8.7, 8.482, 8.569, 10.689.

²⁶⁹ *Vict.-Vit. Hist.* 3.63 (103.11-5 Petschenig).

²⁷⁰ Reichenau Version (Par. lat. 4860, Fol. 49v) of the *Laterculus Regum Vandalorum et Alanorum* (R. Steinacher, *The So-called Laterculus Regum Vandalorum et Alanorum: A Sixth-century African Addition to Prosper Tiro's Chronicle?* in: *Vandals, Romans and Berbers. New Perspectives on Late Antique North Africa*, ed. A. H. Merrills, Aldershot, UK/Burlington, VT 2004, 163-180, esp. 165-6. Cf. *Laterculus* 10 (MGH.AA XIII, *Chronica Minora* III, 459 Mommsen).

²⁷¹ Schiller, *Roman Law*, 52-3.

²⁷² T. D. Barnes, *Leviticus, the Emperor Theodosius, and the Law of God: Three Prohibitions of Male Homosexuality, Roman Legal Tradition* 8 (2012) 43-62 argues for the accuracy of this title. The other one, (*Collatio legum Mosaicarum et Romanorum, Collation of the Laws of Moses and the Romans*), is not based on manuscript evidence.

to the period before the *Codex Theodosianus* was promulgated.²⁷³ It may date to the early fourth century with “revisions in the late fourth and fifth centuries”.²⁷⁴ A date in the late fourth century is a safe guess, perhaps the 390s.²⁷⁵ Scholars also disagree about the religion of the author (i.e., whether he was Jewish or Christian).²⁷⁶ The problem of identity construction in late antiquity has apparently been neglected in some of the debates over the author’s faith.²⁷⁷ The author, in three texts, preserves legal traditions from the *Sententiae Pauli* that mention crucifixion as a punishment for crimes. Assassins and poisoners of lower social standing are subject to crucifixion or death by wild beasts.²⁷⁸ Kidnappers of lower rank are also subject to punishment by crucifixion or to being sent to the mines.²⁷⁹ The author may have been simply fol-

²⁷³ This is because a law against male prostitutes in Coll. 5.3.1-2 (348 Kübler), “posted in *atrio Minervae*, May 390,” is a “full version” with a different date than CTh 9.7.6, “posted at the Forum of Trajan, Aug. 390.” S. Corcoran, *The Empire of the Tetrarchs. Imperial Pronouncements and Government AD 284-324*, Oxford/New York 1996, 11 n. 28.

²⁷⁴ S. Corcoran, *The Empire of the Tetrarchs*, 11 with ref. to G. Barone-Adesi, *L’età della ‘Lex Dei’*, Università di Rome ‘La Sapienza’ pubblicazioni dell’Istituto di diritto romano e dei diritti dell’oriente mediterraneo 71, Naples 1992 and S. Corcoran, *Collatio legum Mosai-carum et Romanarum legum*, in: *The Encyclopedia of Ancient History*, vol. 3, ed. Roger S. Bagnall et al., Malden, MA 2013, 1648.

²⁷⁵ Corcoran, *Collatio*, 1648.

²⁷⁶ Schiller, *Roman Law*, 53, Barnes, *Leviticus*, 46-7, 58, 60-1 (the author is Jewish), L. V. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora* (1995), 210-59 (Jewish), D. Liebs, *Die Jurisprudenz im spätantiken Italien* (260 – 640 n. Chr.), *Freiburger rechtsgeschichtliche Abhandlungen N.S.* 8, Berlin 1987, 162-74 (Christian), A. S. Jacobs, ‘Papinian commands one thing, our Paul another’: Roman Christians and Jewish Law in the *Collatio Legum Mosai-carum et Romanarum*, in: *Religion and Law in Classical and Christian Rome*, ed. C. Ando and J. Rüpke, *Potsdamer Altertumswissenschaftliche Beiträge* 15, Stuttgart 2006, 85-99, esp. 98 (“a cultural tour de force of imperial Christianity”), Corcoran, *Collatio*, 1648: “a Christian lawyer demonstrating to his pagan colleagues that Christians had a legal tradition both compatible with and more ancient than that of Rome.” Barone-Adesi, *L’età*, 12-5, 181-4, 195: the origin was in Diocletian’s imperium in the Roman Jewish community.

²⁷⁷ Cf., for example, the general treatment by J. M. Lieu, *Christian Identity in the Jewish and Graeco-Roman World*, Oxford et al. 2004, idem, *Image and Reality. The Jews in the World of the Christians in the Second Century*, Edinburgh 1996, 1-3 and passim, and idem, *Neither Jew Nor Geek? Constructing Early Christianity*, Edinburgh et al. 2002. See also F. Millar, *The Jews of the Graeco-Roman Diaspora between Paganism and Christianity*, AD 312-438, in: *The Jews among Pagans and Christians in the Roman Empire*, ed. J. Lieu, J. North, and T. Rajak, London/New York 1992, 97-123, esp. 110 with regard to the assertion that the author is a Jew “living in Rome in the second half of the fourth century”: “Anything is possible: but it is necessary to underline just how isolated such a work, if really Jewish, would then seem.”

²⁷⁸ PS 5.23.1 = Coll. 1.2.2, 8.4.2 (329, 359 Kübler) = *lex romana Visigothorum* PS 5.25.1 (*Lex romana Visigothorum*, ed. by G. Haenel, Leipzig 1849, 434). Cf. § 1.7 and the discussion of the *Breviary* below (§ 1.10.11).

²⁷⁹ PS 5.30B.1 = Coll. 14.2.2 (377 Kübler), comm. in 14.3.6 (378 K.). Cf. § 1.7 above.

lowing his sources faithfully and not indicating that crucifixion was still in force as a penalty in the west.²⁸⁰ The absence of historical evidence for the use of crucifixion in the west (the 390s) during this period warrants the view that the author did no more than copy traditions from the *PS*. There is an analogy whose warrant will be developed below in the discussion of the *lex romana Visigothorum* or Breviary. I refer to a position I adapt from comments by Corcoran:

The text of the *Sententiae Pauli* used as a source by the Breviarists contained many references to the cross as punishment, which had not been edited out or modified in the previous 200 years. In principle, therefore, it cannot be proved that a Christian author of the *Collatio* in the 390s would not similarly have simply faithfully copied his texts, as opposed to being 1) a “Jewish”²⁸¹ author in the 390s for whom the matter was not sensitive or 2) a Jewish/Christian author in the early fourth century before the Constantinian changes were enacted or became generally known and embedded. In my view, this makes it very difficult to decide what the significance of having *crux* in the *Collatio* actually is.²⁸²

The *Collatio* should in consequence not be used to prove that crucifixion was still practiced in the West.

1.10.11 The *lex romana Visigothorum* and the *lex Visigothorum*

Eduardo Volterra maintained that since the *PS* were preserved in the Breviary (adopted by Alaric II in 506) that crucifixion was still practiced in the west.²⁸³ He hypothesized that the origin of the abrogation of crucifixion emanated only from the east and that in the west it was practiced for centuries under diverse aspects. Volterra, however, did not reject the testimony of Aurelius Victor, Ambrosiaster, Augustine, and Sozomen. It is difficult to make an in-

²⁸⁰ Professor Corcoran, in a personal communication of 27 August 2013 thinks that this is “the more likely view.”

²⁸¹ The quote marks recognize the difficulty of identity construction in late antiquity.

²⁸² From a personal communication of 30 August 2013.

²⁸³ Volterra, *Sull'uso delle Sententiae di Paolo*, 54–58 and Dinkler-von Schubert, *Nomen ipsum crucis*, 234 (who rejects the common opinion that such laws were purely anachronistic). Cf. *Lex romana Visigothorum*, ed. by G. Haenel, Leipzig 1849. Examples of crucifixion from *PS* (the following references to this text will use the current numbering for *PS* in parentheses) include *lex romana Visigothorum PS* 5.19.2 (432 Haenel = *PS* 5.17.2 [143 Seckel/Kübler]). The comment here (and elsewhere below) is: *Interpretatione non eget* (interpretation is not needed). *Lex romana Visigothorum PS* 5.23.4 (434 Haenel = *PS* 5.21.4 [146 Seckel/Kübler, on soothsayers and astrologers]); *lex romana Visigothorum PS* 5.24.1 (434 Haenel = *PS* 5.22.1 [146 Seckel/Kübler, on sedition]); *lex romana Visigothorum PS* 5.25.1 (434 Haenel = *PS* 5.23.1 [148 Seckel/Kübler, on the *lex Cornelia de sicariis et veneficis*] = *Coll.* 1.2.2, 8.4.2 [329, 359 Kübler]); *lex romana Visigothorum PS* 5.25.9, 11 (436 Haenel = *PS* 5.23.15, 17 [150 Seckel/Kübler, on the *lex Cornelia de sicariis*]); *lex romana Visigothorum PS* 5.27.1 (436 Haenel = *PS* 5.25.1 [151 Seckel/Kübler, on the *lex Cornelia testamentaria*]).

ference from the mention of punishments in the *PS* in the *lex* to the existence of such punishments in the Visigothic kingdom, however. The *interpretatio* of *Codex Theodosianus* 1.4.1 in the *lex* states:

However from all these juriconsults, from Gregorianus, Hermogianus, Gaius, Papinian, and Paulus, we have chosen what is necessary for the cases of the present times.

*Sed ex his omnibus iuris consultoribus, ex Gregoriano, Hermogeniano, Gaio Papiniano et Paulo, quae necessaria causis praesentium temporum videbantur elegimus.*²⁸⁴

The *lex romana Visigothorum* did not include *Codex Theodosianus* 9.5.1 with its provision to crucify slaves. An important gloss on the Visigothic version of the *Theodosian Code* in the *Codex Regii Parisiensis* 4413 states:

Supreme penalty. But indeed Christians do not desire that anyone should be punished with the death of the Savior; instead of the cross, forks²⁸⁵ are used.

*Summo supplicio. Sed iam nolunt Christiani, ut morte Salvatoris aliquis puniatur; unde loco crucis forcipes sunt adhibitae.*²⁸⁶

There is some evidence that Goths practiced crucifixion, before they ruled in the west. Gregory Thaumaturgus, in his *Canonical Letter*, describes those who have joined Gothic raiding parties in the mid third century while the raiders (and Christians) were “on Roman soil”:

As for those who have been enrolled among the barbarians and followed after them as prisoners, forgetting that they were men of Pontus, and Christians, and have become so thoroughly barbarised as even to put to death men of their own race by the gibbet or noose, and to point out roads and houses to the barbarians, who were ignorant of them; you must debar them even from the ranks of Hearers ...

Τοὺς μὲν οὖν ἐγκαταλεχθέντας τοῖς βαρβάροις καὶ μετ’ αὐτῶν ἐν τῇ αἰχμαλωσίᾳ ὄντας, ἐπιλαθομένους ὅτι ἦσαν ποντικοὶ καὶ χριστιανοί, ἐκβαρβαρωθέντας δὲ ὡς καὶ φονεῦν τοὺς ὁμοφύλους ἢ ξύλῳ ἢ ἀγχόνῃ

²⁸⁴ *lex romana Visigothorum Codex Theodosianus* 1.4.1 *interpretatio* (20 Haenel) with comments by K. Zeumer, *Geschichte der westgothischen Gesetzgebung*, I, *Neues Archiv* 23 (1898) 419-516, esp. 474. The remainder of his article is still fundamental: *ibid.*, *Neues Archiv* 24 (1899) 39-121, 573-630; *Neues Archiv* 26 (1901) 91-149.

²⁸⁵ M. Conrat Cohn, *Geschichte der Quellen und Literatur des römischen Rechts im früheren Mittelalter* I, Leipzig 1891, 250 read the text as *furci si (sunt?)* instead of *forcipes sunt* in Haenel’s edition. *forcipes* probably was an equivalent for *furcae*. Cf. *Glossarium mediae et infimae latinitatis*, ed. by C. DuCange, Nior 1883-1887, s.v. *tenaces*: *Forcipes ... nostris Fourchettes (forcipes ... our forks)* and Isid. Diff. 1.262 (PL 83.37): ... *forcipes, tenaces*.

²⁸⁶ *Glossae Codicis Regii Parisiensis* 4413 (462 Haenel) ad *lex romana Visigothorum Codex Theodosianus* 1.9.1 *interpretatio* (24 Haenel), which is CTh 1.22.1 (61,1-8 Momm./Kr.). Haenel, *lex romana Visigothorum*, lxxv writes that the codex was apparently written in 833.

ὑποδεικνύναι δὲ ἡ ὁδοὺς ἡ οἰκίας ἀγνοοῦσι τοῖς βαρβάροις, καὶ τῆς ἀκροάσεως ἀπεῖρξαι δεῖ ...²⁸⁷

Gregory is possibly thinking of some form of crucifixion or possibly beating.²⁸⁸ Vinitharius, a leader of the Goths (or Ostrogoths) in the mid-fifth century, vanquished the Antae (a Slavic people who lived north of the lower Danube):

... When [Vinitharius] attacked them, he was beaten in the first encounter. Thereafter he did valiantly and, as a terrible example, crucified their king, named Boz, together with his sons and seventy nobles, and left their bodies hanging to double the fear of those who had surrendered.

... eosque dum adgreditur prima congressione superatus, deinde fortiter egit regemque eorum Boz nomine cum filiis suis et LXX primatibus in exemplum terroris adfixit, ut dediticiis metum cadavera pendentium geminarent.²⁸⁹

Whether the Visigoths practiced crucifixion in Spain or the territories they held in lower France is highly questionable.²⁹⁰ Floyd Seyward Lear approves an earlier comment concerning the interpretations that accompany the quotations of Roman law in the *lex Romana Visigothorum*: “These *interpretationes* do not reflect a Visigothic attempt to restate the Roman Law in terms which they could better understand, but as Henry Osborn Taylor remarks, probably represent ‘the approved exposition of the *leges*, with the exposition of the already archaic *PS*, current in the law schools of Gaul in the fifth century’.”²⁹¹

²⁸⁷ Gregorius Thaumaturgus, Epistula canonica 7 (Les canons des Pères grecs, vol. 2 of Discipline générale antique, sec. II-IX, ed. P.-P. Joannou, Fonti 1/9, Rome 1963, 27,9-17 = PG 10.1040CD). Trans. of P. Heather and J. Matthews, *The Goths in the Fourth Century*, Liverpool 1991, 8-9. Cf. *ibid.*, 3 (the raids occurred in the 250s), 7 (the location of the raiders and their prisoners).

²⁸⁸ M. Slusser, *St. Gregory Thaumaturgus: Life and Works*, FaCh 98, Washington, DC 1998, 150 translates ξύλῳ with “beating,” although in a note he concedes it could be crucifixion.

²⁸⁹ Iord. Get. 48.247 (MGH.Auctores antiquissimi 5/1, 121,19-22 Mommsen). Trans. of P. Heather, *Empires and Barbarians. The Fall of Rome and the Birth of Europe*, Oxford 2009, 442 and cf. *ibid.*, 392, 401 on the Antae.

²⁹⁰ With regard to the *lex romana Visigothorum*, cf. F. Dahn, *Westgothische Studien. Entstehungsgeschichte, Privatrecht, Strafrecht, Civil- und Straf-Proceß und Gesamtkritik der Lex Visigothorum*, Würzburg 1874, 174: “It is extremely unlikely that punishments including *crux*, *culeus* (sack) and *deportatio* (exile) were ever carried out against Roman citizens in the Gothic kingdom: *bestiae* (wild animals), *ludus gladiatorius* (gladiatorial combat) certainly were no longer used.”

²⁹¹ F. S. Lear, *The Crimen Laesae Maiestatis in the Lex Romana Wisigothorum*, Spec. 4 (1929) 73-87, esp. 75 with reference to H. O. Taylor, *The Mediaeval Mind. A History of the Development of Thought and Emotion in the Middle Ages* 2, New York: 1925, 272.

It is important that Recceswinth in his new codification of 654 (the *lex Visigothorum*) did not include crucifixion among the punishments.²⁹² Scourging and burning were used for various offenses.²⁹³ If crucifixion had been a frequent and important practice in the *Strafrecht* (penal law) of Visigothic society, one would expect it to have survived in Recceswinth's codification. Another consideration is that the Visigoths had converted to Arian Christianity when they arrived in Spain. They were "in the throes of the process of adaptation or acculturation to Roman culture" and Arianism was "inseparable from Latin culture."²⁹⁴ Their Romanized Christian faith would not have been consistent with the practice of crucifixion and would have been a rejection of the tradition concerning Christian rulers witnessed to by Ambrosiaster, Augustine, and Cassiodorus.

The first crucifixion I have been able to find in the Visigothic kingdom occurred during the Arab and Berber conquest of Spain. Musa condemned to the cross certain patricians and secular authorities of Zaragoza (*seniores et potentes seculi cruci adiudicat*), according to an eighth century chronicle.²⁹⁵

²⁹² Cf. *lex Visigothorum* (MGH.Leges 1/1, Zeumer). In a discussion of the punishment for treason in the *lex Visigothorum*, F. S. Lear (The Public Law of the Visigothic Code, Spec. 26 [1951] 1-23, esp. 23) writes, "Interdiction from fire and water, decapitation, burning alive, casting to the beasts and crucifixion give way to blinding, scourging, mutilation, reduction to servitude, exile and death." For historical background of the code, cf. M. R. Madden, *Political Theory and Law in Medieval Spain*, New York 1930, 21-42 and G. Mousourakis, *The Historical and Institutional Context of Roman Law*, Burlington, VT 2003, 379-380.

²⁹³ *lex Visigothorum*: Scourging (*flagellum*) 2.1.31; 2.2.7; 2.2.8; 3.4.14 (79,16-7; 84,20; 85,14; 155,30-1 Zeum.); scourging and burning (*publice fustigentur et ignibus concrementur*) 3.2.2 (134,2-3 Zeum.); burning 3.4.14, 8.2.1 (156,1-2 318,20-1 Zeum.), stoning or burning (a punishment enacted by Jews against fellow Jews) 12.2.11; 12.2.17 (417,7-8; 426,7 Zeum.), the *lex talionis* for parricides 6.5.17 (282,22-3 Zeum.) and so forth.

²⁹⁴ G. Ripoll López, *Symbolic Life and Signs of Identity in Visigothic Times*, in: *The Visigoths from the Migration Period to the Seventh Century. An Ethnographic Perspective*, ed. by P. Heather, Woodbridge, UK/Rochester, NY 1999, 403-431, esp. 404-405. Cf. also the public humiliation (by Reccared after his conversion to Catholicism in 587) of the rebellious Argimund in 589/590. *Ipse autem Argimundus, qui regnum assumere cupiebat, primum verberibus interrogatus, deinde turpiter decalvatus, post haec dextra amputata exemplum omnibus in Toletana urbe asino sedens pompizando dedit et docuit famulos dominis non esse superbos* (Argimundus himself, who wanted to lay hands on the kingdom was "first interrogated with whips, then was scalped as a mark of his shame; next he had his right hand cut off, and was displayed throughout Toledo mounted on an ass, as an example to all that servants should not be presumptuous to their masters"). Trans. of R. Collins, *Visigothic Spain* 409-711, Oxford 2004, 69 from Ioh.-Bicl. Chron. 93 (CChr.SL 173A, 83,399-405 Hartmann = MGH.Auctores antiquissimi 11, 219,33-220,3 Mommsen). His associates were executed (*ultione interfecti*). There is no mention of crucifixion, which would have been the natural Roman punishment for revolutionaries. Cf. *lex romana Visigothorum* PS 5.24.1 (434 Haenel = PS 5.22.1 [146 Seckel/Kübler, *De seditionibus*]) on *sedition*.

²⁹⁵ Cf. [Isidorus Iunior] *Historia Gothorum Wandalorum Sueborum*. V. *Continuatio Hispana* a. DCCLIV 71 (MGH.Auctores antiquissimi 11, 353,17 Mommsen) = *Crónica*

1.10.12 Conclusion

The last demonstrable crucifixion approved by an appropriate authority in the west was the execution of the usurper Calocerus in 335, presumably carried out by Constantine's nephew Dalmatius. While this departed from Constantine's apparent policy, it was a traditional punishment for revolutionary "bandits."²⁹⁶ The tribune's crucifixion of the king of the Alamanni near Châlons-sur-Marne in 366 was unsanctioned, and Ammonius Marcellinus views it as a "horrible atrocity" or even a "horrible crime." It probably shows that crucifixions had become extremely rare, if not unheard of, by that time. All the western authors, pagan and Christian (Aurelius Victor, Ambrosiaster, Augustine, and Cassiodorus), who comment on crucifixion with reference to Christian rulers believe that they no longer practiced it. That does not imply it never happened. Another fact is verifiable: the continued existence of gladiatorial games despite Constantine's expressed desire to end them can be demonstrated by abundant references to the practice long after the edict of 325. After 335, however, the first sanctioned crucifixion in the west does not appear until the Arab and Berber invasion of Spain where Musa crucified certain patricians and authorities in Zaragoza. This shows a clear difference between the fate of crucifixion and that of the gladiatorial games. The former becomes so rare after 335 that one can argue based on the silence of the sources that it all but disappeared despite the astrologer Firmicus's zest for including it in his arsenal of traditional punishments. The existence of the *Pauli Sententiae* in the *lex Romana Visigothorum* does not prove that the Visigoths practiced crucifixion in their kingdom. Recceswinth's silence about the traditional punishment in the new code of Visigothic law probably shows the archaic nature of crucifixion. Beginning with Constantine, perhaps after the death of Licinius, the executioners practiced their art by means other than crucifixion: burning at the stake and the *furca* probably became the preferred instruments of choice. The human imagination never failed to produce what Ammianus in another context might have called *facinora atrociora* (terrible crimes).

mozárabe de 754. Edición crítica y traducción 54, ed. by E. López Pereira, *Textos medievales* 58, Zaragoza 1980, 72,16. D. L. Lewis, *God's Crucible. Islam and the Making of Europe, 570-1215*, New York/London 2008, 131 dates the conquest of Zaragoza to 714, and cp. H. Kennedy, *The Muslims in Europe*, NCMH 2 (1995) 249-271, esp. 257. On the eighth century anonymous author of the chronicle, cf. *Conquerors and Chroniclers of Early Mediaeval Spain*, trans. with notes and introduction by K. B. Wolfe, Liverpool ²1990, 26-27.

²⁹⁶ Hengel, *Crucifixion*, 46-50.

Chapter Six

Roman Crucifixion and the New Testament

Crucifixion is a central theme in the New Testament and early Christianity. Reflection on Jesus' death appears already in the earliest documents of the New Testament including texts such as 1 Thess 1:10, 5:10 and the traditions of the Gospels. Reflection that focuses on the cross as the means of Jesus' death probably began at the same time (e.g., Phil 2:8 *θανάτου δὲ σταυροῦ*, death on a cross, particularly if it is pre-Pauline).¹ The narrative of Jesus' crucifixion in the Gospels is spare – not divulging many details. It is an interesting exercise, however, to compare those narratives with other accounts of Roman crucifixions. The Gospel narratives themselves are a form of theology.

1 Roman Procedure and the Gospels

Samuelsson has argued that most of the scholarly descriptions of “crucifixion” are merely retellings of the Gospel narrative.² One should not take the

¹ O. Hofius, *Der Christushymnus Philipper 2.6-11*, WUNT 17, Tübingen 1976, 17 (and cf. 3-17, 56-64) defends the pre-Pauline nature of the phrase as does M. Hengel, *The Son of God*, Philadelphia 1976, 76, 87, idem, *Crucifixion*, 62-3. Kuhn, *Die Kreuzesstrafe*, 672-3, on the other hand, based on an analysis of the hymn into strophes, argues that the phrase is a Pauline addition. One of the lines of his analysis, however, has 16 syllables (*ἐπουρανίων ... καταχθονίων*) so the 18 syllables in the line he thinks proves the phrase is an addition is not so problematic (*γενόμενος ... [θανάτου δὲ σταυροῦ]*). In addition, the absence of Greek meter further weakens Kuhn's argument. U. B. Müller, *Der Christushymnus Phil 2 6-11*, ZNW 79 (1988) 17-44, esp. 19, 21 hypothesizes an original hymn based on parallelism and puts the phrase in brackets (i.e., it is a Pauline addition). M. D. Hooker's (Philippians 2:6-11, in: *Jesus und Paulus. Festschrift für Werner Georg Kümmel zum 70. Geburtstag*, ed. E. E. Ellis and E. Grässer, Göttingen 1978, 151-64, esp. 157-8) strophic analysis does not have any excisions, and she notes that there are many different “poetic structures” in the scholarly literature (and that none really fits). Cp. NA²⁸ for an analysis in which the phrase fits perfectly. The entire “hymn” could, of course, be a Pauline composition. P. T. O'Brien, *The Epistle to the Philippians. A Commentary on the Greek Text*, Grand Rapids 1991, 186-8 has three pages of bibliography on the text (in 200-1 he argues that the phrase belonged originally to the hymn – although he inclines toward Pauline authorship of the entire hymn [ibid., 202]).

² Samuelsson, *Crucifixion*, 287-307.

widely scattered references to crucifixion, combine what few details are present in the texts, and assert that there was a procedure common to all the executions. Nevertheless, enough details surface in the accounts (historical and fictional) that one can enumerate elements present in the various crucifixions, even though no *one* description is valid. In other words, there are “family resemblances” shared by the different narratives: “And the strength of the thread does not reside in the fact that some one fibre runs through its whole length, but in the overlapping of many fibres.”³ With regard to Samuelsson’s skepticism about the existence of ancient accounts of crucifixion (other than a few), Vermes’s argument is worth repeating:

The trouble with the method of Samuelsson and of similar sceptics is that ... they sit at their desks and absorb the smallest details discoverable in books, but have no time or inclination to face up to reality. Josephus and the early Targumists knew what crucifixion was from eyewitness experience.

Pál Sárosi notes that in antiquity public crucifixions belonged to the horrors of daily life, and authors (e.g., the Evangelists) did not need to write lengthy descriptions.⁴ Roman crucifixion practice varied, but the texts and archaeological evidence such as the graffiti show that there were many overlapping fibres running through the ancient descriptions, both fictional and historical.

1.1 Crucifixion as a Miserable and Shameful Death

Crucifixion was a miserable death. One need only glance at the pathos of the face of the man in the Arieti tomb who is attached to the *patibulum* while standing on the ground. It is not difficult to surmise that the graffiti of Alkimilla also depicts human pain.⁵ Although Sokichi, in an image to be discussed below (figure 18), was probably killed by spears in his side, the misery of his crucifixion is unmistakable. Eleazar begs not to undergo the “most pitiable of deaths” (θανάτων τὸν οἰκτιστόν) according to Josephus.⁶ Cicero calls it a *crudelissimū taeterrimūque supplicium* (cruel and terrify-

³ L. Wittgenstein, *Philosophical Investigations*, Oxford et al. 2001, 28 (§ 67). Samuelsson, *Crucifixion*, 312 apparently misunderstands the concept: “These scholars seem to imply that all texts in which the terms occur are crucifixion accounts from which they can extract information and, despite the texts’ diversity, add it together.” One starts with accounts of crucifixion (using the terminological results and methodology discussed in the introduction and throughout the book) and finds details that appear in different narratives, but does not “add” them all together and claim that all crucifixions were the same. The details are like threads that overlap many, but not all, of the narratives.

⁴ Vermes, *Was Crucifixion a Jewish Penalty*, 69. Samuelsson, *Crucifixion*, 312, in his second edition, fails to address Vermes’s criticisms with his comment quoted above. P. Sárosi, *Die Kreuzigungsstrafe im römischen Reich*, OIR 10 (2005) 183-213, esp. 183.

⁵ Cf. chapt. 2 § 3.14 and figures 5-7.

⁶ Josephus Bell. 7.202-203. Prometheus (Lucian Prom. 4) calls his “crucifixion” a pitiful spectacle to all the Scythians (οἰκτιστον θέαμα παῖσι Σκύθαις).

ing penalty).⁷ Seneca is one of the few Roman authors who depicts the slow anguished death of the crucified individual.⁸ The apologists insist that pagans and Jews objected to the form of Jesus' death.

Justin's Jew named Trypho challenges the Christian: "if he was to be crucified and so die shamefully and dishonorably by a death that is cursed in the law, prove it to us" (εἰ δὲ καὶ σταυρωθῆναι καὶ οὕτως αἰσχρῶς καὶ ἀτίμως ἀποθανεῖν διὰ τοῦ κεκατηραμένου ἐν τῷ νόμῳ θανάτου, ἀπόδειξον ἡμῖν).⁹ Although Trypho refers to Deut 21:23, this point of view also expresses a revulsion towards crucifixion in itself.¹⁰ Justin may have engaged in or been aware of genuine Christian dialogue with the Jewish community.¹¹ He also depicts pagan reactions to the Christian worship of a crucified Lord:

For they declare that our madness consists in this, that we give second place after the unchangeable and eternally existent God and creator of all things to a person who was crucified ...

ἐνταῦθα γὰρ μανίαν ἡμῶν καταφαίνονται, δευτέραν χώραν μετὰ τὸν ἄτρεπτον καὶ αἰὲν ὄντα θεὸν καὶ γεννήτορα τῶν ἀπάντων ἀνθρώπων σταυρωθέντι διδόναι ἡμᾶς λέγοντες ...¹²

It is the worship of a crucified man that shocks the pagans, and this provides a reasonable foundation for understanding some of Paul's reflections on the cross of Christ.¹³ Justin counters this argument later in the *Apology* by calling attention to sons of Zeus such as Asclepius, Dionysus, and Heracles, who

⁷ Cic. Ver. 2.5.165. He also (Rab. Perd. 16) describes the citizen's "terror of the cross" (*crucis ... terrore*).

⁸ Sen. Ep. 101.13-14.

⁹ Justin Dial. 90.1 (225,2-4 Marcovich). Cp. 32.1 (121,4-6 Marc.) ὁ ὑμέτερος λεγόμενος Χριστὸς ἄτιμος καὶ ἄδοξος γέγονεν, ὥς καὶ τῇ ἐσχάτῃ κατάρᾳ τῇ ἐν τῷ νόμῳ τοῦ θεοῦ περιπεσεῖν· ἐσταυρώθη γάρ (Your so called Christ was dishonorable and disreputable, so that he encountered the last curse of God in the law, for he was crucified), 89.2 (224,4-225,2 Marc.) εἰ δὲ καὶ ἀτίμως οὕτως σταυρωθῆναι τὸν Χριστόν, ἀποροῦμεν· ἐπικατάρατος γὰρ ὁ σταυρούμενος ἐν τῷ νόμῳ λέγεται εἶναι (We doubt that the Christ should be so shamefully crucified, for in the law it is said that "cursed is everyone who is crucified").

¹⁰ Kuhn, *Die Kreuzesstrafe*, 772 devalues these statements as evidence of the scandalous nature of crucifixion because of the reference to Deut 21:23, but his argument seems unsuccessful.

¹¹ Cf. W. Horbury, *Jews and Christians in Contact and Controversy*, Edinburgh 1998, 101, 131, 203.

¹² Justin 1 Apol. 13.4 (51,15-8 Marc.). The charge of madness or foolishness was an ancient pagan topos against the Christians. Cf. Marcovich's apparatus.

¹³ Against Kuhn, *Die Kreuzesstrafe*, 772 who attempts to reject this clear statement of Justin by appeal to 1 Apol. 1.22.3-4.

were killed in various ways (by thunderbolt, being torn apart, and self immolation respectively).¹⁴

But if someone charges that he was crucified, this also is common to those who according to you are sons of Zeus whose sufferings have been enumerated above. For their sufferings at death are not alike but are told in different ways. So that the specific form of his [Christ's] suffering does not appear to be inferior, but as we promised, as the argument progresses we will show that his death was superior, indeed it has already been proved so. For the great individual is shown so from his actions.

εἰ δὲ αἰτιάσαιτό τις ἐσταυρωθῆναι αὐτόν, καὶ τοῦτο κοινὸν τοῖς προκατηριθμημένοις παθοῦσιν υἱοῖς καθ' ὑμᾶς τοῦ Διὸς ὑπάρχει. ἐκείνων τε γὰρ οὐχ ὅμοια τὰ πάθη τοῦ θανάτου ἀλλὰ διάφορα ἱστορεῖται· ὥστε μηδὲ τὸ ἴδιον τοῦ πάθους ἤττονα δοκεῖν εἶναι τοῦτον ἀλλ', ὥς ὑπεσχομέθα, προϋόντος τοῦ λόγου καὶ κρείττονα ἀποδείξομεν, μᾶλλον δὲ καὶ ἀποδεδεικται· ὁ γὰρ κρείττων ἐκ τῶν πρᾶξεων φαίνεται.¹⁵

Although this is slightly different from the text above in which the Christian madness comprised believing in a crucified Lord, here the objection is to crucifixion itself. Clearly if one can trust Justin, there were pagans who objected to the specific form of Jesus' death. Justin attempts to escape the power of their argumentation, which must have been that crucifixion was inferior to what the accepted sons of Zeus suffered. With regard to Genesis 49:10, Justin argues that Moses prophesied Christ, but that the demons attempted to apply the prophecies to figures such as Dionysus and Bellerophon (the vine, the foal).¹⁶ But neither of these figures was crucified:

But in no instance, not even in the case of those called sons of Zeus, did they imitate being crucified; for they did not understand, as had been explained, that all the things said about it were put symbolically.

Ἀλλ' οὐδαμοῦ οὐδ' ἐπὶ τινος τῶν λεγομένων υἱῶν τοῦ Διὸς τὸ σταυρωθῆναι ἐμιμήσαντο· οὐ γὰρ ἐνοεῖτο αὐτοῖς, συμβολικῶς, ὥς προεδήλωται, τῶν εἰς τοῦτο εἰρημένων πάντων λελεγμένων.¹⁷

Since the LXX prophesied the crucifixion of Christ¹⁸ in Justin's view, the crucifixion becomes an indication of the truth of Christianity rather than a sign of madness and proof of an inferior form of death. Kuhn rejects Hengel's statement that "It is crucifixion that distinguishes the new message from the mythologies of all other peoples" by arguing that if in Greek mythology a son of Zeus had been crucified, then the form of death would not

¹⁴ Justin 1 Apol. 21.2 (63,5-10 Marc.).

¹⁵ Justin 1 Apol. 22.3-4 (65,8-14 Marc.).

¹⁶ Justin 1 Apol. 54.4-10 (108.12-109,38 Marc.).

¹⁷ Justin 1 Apol. 55.1 (110,1-3 Marc.). Trans. of St. Justin Martyr, *The First and Second Apologies*, ACW 56, trans. and comm. L. W. Barnard, New York 1997, 64.

¹⁸ Cf. Justin 1 Apol. 35.1-9 (82.1-83.22 Marc.).

have been offensive to the pagans.¹⁹ This is unproven, however, given the general attitude toward crucifixion among elite Greeks and Romans. One can surmise that it was for that reason that no stories were told of crucified sons of Zeus or other mythological figures. Although Prometheus and Andromeda were “crucified” in various ways, neither died from being exposed with their hands extended.²⁰

Minucius Felix’s pagan, Caecilius, makes this comment on Jesus’ death:

And one who says that their rites concern a man punished by the extreme penalty for his crime and the fatal wood of the cross, attributes altars to them that fit those depraved and accursed individuals, so that they worship what they deserve.

*et qui hominem summo supplicio pro facinore punitum et crucis ligna feralia eorum caerimonias fabulatur, congruentia perditis sceleratisque tribuit altaria, ut id colant quod merentur.*²¹

Octavius also mentions Caecilius’s charge that Christians worship a criminal and his cross: “you attribute to our religion a criminal and his cross” (*religioni nostrae hominem noxium et crucem eius adscribitis*).²²

Origen, living in the era of Roman imperial crucifixions, has this comment on Matt 27:22: *non solum homicidam postulantes ad vitam, sed etiam iustum ad mortem et ad mortem turpissimam crucis* (asking not only life for a murderer but also death for an innocent man, indeed the utterly vile death of the cross).²³ Celsus shares this image of Jesus’ death as shameful. He refers to Jesus’ dishonorable arrest and shameful death (δεδεμένος ἀτιμότατα ἢ κεκολασμένος ἀσχίστα).²⁴

Arnobius, writing soon before the imperium of Constantine, is also a witness to this perspective in the following objection of a pagan:

“But” he said, “the gods are not inimical towards you because you worship the omnipotent god, but because you worship a man who was born and who perished by the notorious punishment of the cross that is for the lowest persons [i.e., common people]. In addition you contend that he was a god and you believe he still exists and you worship him with daily supplications.”

Sed non, inquit, idcirco dii vobis infesti sunt, quod omnipotentem colatis deum, sed quod hominem natum et, quod personis infame est vilibus, crucis supplicio interemptum et

¹⁹ Hengel, *Crucifixion*, 1, Kuhn, *Die Kreuzesstrafe*, 772.

²⁰ Kuhn, *Die Kreuzesstrafe*, 742 neglects this crucial point. For Ganymede (Achilles Tatius 2.37.3), see chapt. 3 § 3.3.

²¹ Minuc. 9.4.

²² Minuc. 29.2. On staurolatry, cf. chapt. 3 § 6.4.

²³ Origen Mat. 124 (on Matt 27:22) (GCS Origenes Werke XI, 259,6-7 Klostermann). Cf. Hengel, *Crucifixion*, xi (his trans.).

²⁴ Origen, C. Cels. 6.10, cf. chapt. 3 § 6.1 for Celsus’ approach to Jesus’ death. Ps. Manetho *Apotelesmatica* 1.148 describes an individual who is ignominiously crucified (ἄλλον δ’ ἀκλειδῶς μετέωρον ἀνεσταύρωσας).

*deum fuisse contenditis et superesse adhuc creditis et cotidianis supplicationibus adoratis.*²⁵

Arnobius's pagan was likely expressing a common attitude toward crucifixion.

Porphyry probably died shortly before the reign of Constantine (ca 305). The fragment from Porphyry (or unnamed pagans) preserved by Methodius asks why Christ had to suffer crucifixion rather than some other punishment and of what use it was in the first place – demonstrating that for some pagans his crucifixion was utterly meaningless.²⁶ The oracle Porphyry attributes to Apollo concerning a pagan's Christian wife also demeans Christ's death: "let her continue to lament, singing of a god dead in his delusions, who was destroyed by judges who decided correctly, and in public the worst death – bound with iron – killed him" (*quem iudicibus recta sentientibus perditum pessima in speciosis ferro uincta mors interfecit*).²⁷

Lactantius, who also lived in the era before Constantine abolished crucifixion, preserves an objection to Christ's death that may be of pagan (or Christian) origin:

Why, if he was God and wanted to die, was he not at least executed by some other honest form of death? Why particularly by a cross? Why by an infamous form of punishment, which indeed appears unworthy of a free person in spite of the fact that he/she is guilty?

*"cur si deus fuit et mori uoluit, non saltem honesto aliquo mortis genere adfectus est? cur potissimum cruce? cur infami genere supplicii, quod etiam homine libero quamuis nocente uideatur indignum?"*²⁸

In the oracle Lactantius attributes to Apollo, Christ was "mortal according to the flesh, wise in miraculous works, / But condemned by Chaldaean judges, / Fastened with nails to stakes, he accomplished a bitter end" (γομφωθεὶς σχολόπεσσι πικρὴν ἀνέπλησε τελευτήν).²⁹ The view of crucifixion in the pagan authors probably shows that this objection was common to both pagans and some Christians. The pagan and later Christian comments are thoroughly

²⁵ Arn. Nat. 1.36. In 1.40 Arnobius answers the objection that Christ died fixed to the cross (*Sed patibulo adfixus interiit*). He also notes (Nat. 1.41) that pagans laugh at Christians because they worship a man who died a shameful death (*Et tamen, o isti, qui hominem nos colere morte functum ignominiosa rideti*).

²⁶ Chapt. 3 § 6.2.

²⁷ Aug. Civ. 19.23, chapt. 1 § 2.27.

²⁸ Lact. Inst. 4.26.29. Chrysostom Hom. in Ioh. 84.2 (PG 59.457) writes of crucifixion that "it was a shameful death" (Ἐπονείδιστος οὗτος ὁ θάνατος ἦν). See Zestermann, *Die Kreuzigung*, 359.

²⁹ Lact. Inst. 4.13.11. See chapt. 1 § 2.27. Cp. Ps. Manetho Apotelesmatica 4.199 πικροτάτοις κέντροισι προαρτηθέντες ἐν ἥλοις ([criminals] in bitter torments fastened with nails).

compatible with the view of Jesus' death in Heb 12:2 (ὑπέμεινεν σταυρὸν αἰσχύνης καταφρονήσας [he endured the cross, despising the shame]).³⁰

1.2 The Practice of Crucifixion

Crucifixion was used against a variety of individuals including slaves (men and women), foreigners, and citizens of low social standing.³¹ It is clear that various forms of torture often preceded crucifixion including scourging, burning with or without pitch, and heated plates (*laminae*).³² In some texts the condemned walked in chains to the place of crucifixion or at least were in chains prior to their crucifixion.³³ They (or others) sometimes carried their crosses, and in Latin writers the object which they carried is called the *patibulum*, which also designates the horizontal part of the cross on which their hands were extended.³⁴ In the cases where the *patibulum* was carried, the *crux* (vertical beam in these contexts) was already in place.³⁵ Other texts describe the setting up of crosses for victims and do not mention the *patibulum* being carried.³⁶ Forms of *agere in crucem* (lead to the cross) or *tollere in*

³⁰ Cp. 1 Cor 1:23 and Gal 5:11. Cf. H. W. Attridge, *The Epistle to the Hebrews*, Hermeneia, Philadelphia 1989, 357-8 ("The ignominy of Christ's execution as a criminal was apparent to any person of the first century, and the addressees were surely aware of it"), Hengel, *Crucifixion*, 8 (and his whole first chapter).

³¹ Chapt. 2 § 4 and chapt. 5 § 1.1.

³² Scourging: chapt. 2 § 2.2, 3.3.2, 3.5.5, Mark 15:15 par., *lex Puteolana* II.9 (Cook, *Envisioning Crucifixion*, 265-266, 269-270). Metal plates and fire: chapt. 2 § 3.24.1, Cic. Ver. 2.5.14, 2.5.163, Pl. As. 549-551. Pitch: *lex Puteolana* II.12, Pl. Capt. 596-597 (crucifixion not mentioned), and chapt. 5 § 1.4.4. The wheel?: chapt. 2 § 3.3.2.

³³ Chains: chapt. 2 § 2.3.4, Chariton Chaer. 4.2.6-7, Pl. Cur. 693 (led to a cross with the neck bound), Luc. 7.304, *lex Puteolana* II.9 (*uincula*, either for binding the victim to the cross or for the procession).

³⁴ John 19:17, Plutarch Sera 554A, Artemidorus Onir. 2.56 (criminals carry their crosses and are nailed to them), *lex Puteolana* II.9-10, Pl. Mil. 359, Most. 55-56, Carb. frag. 2, Clodius Licinus Hist. frag. 3, Firmicus Maternus Math. 6.31.58. Artemidorus notes that victims' hands were "stretched out" (τῇν τῶν χειρῶν ἔκτασιν Onir. 1.76) as does Seneca Dial. 3.2.2 *alium in cruce membra diffindere*. Mark 8:34 par and Luke 14:27/Matt 10:38 also reflect this imagery (although apparently few Christians were actually crucified; cf. chapt. 2, first paragraph). See Hinard/Dumont, Libitina, 117-118 (comments by the research group), Cook, *Envisioning Crucifixion*, 266-267, and intro. § 2.1 and 3.1, on *patibula* and the shapes of crosses. Cp. chapt. 2 § 3.1.4.

³⁵ Cf. the *lex Puteolana* (chapt. 5 § 1.4), Pl. Carb. frag. 2, Clodius Licinus Hist. frag. 3, Firmicus Maternus Math. 6.31.58.

³⁶ Juv. 6.219 (*pone crucem seruo* [set up a cross for the slave]), Josephus Bell. 7.202, Suet. Galb. 9.1 (*statui crucem iussit* [he ordered that a cross be set up]), Dom. 10.1 (*libraris ... cruci fixis* [copyists fastened to the cross]), Cic. Ver. 2.5.12 (*crucem servis fixeras* [you had set up a cross for slaves]), 2.5.169 (*crucem fixissent post urbem in via Pompeia, te iubere in ea parte figere quae ad fretum spectaret* [they had set up a cross behind the town in the via Pompeia, but you ordered it to be set up in that place that looks out over the straits]), Rab.

crucem (lift up on a cross) are common and in those texts the authors do not describe individuals' carrying the *patibulum* beforehand.³⁷

Zestermann argues that individuals were attached to standing crosses (and not while the crosses lay on the ground).³⁸ This is confirmed by Artemidorus who wrote that one who is about to be nailed to a *stauros* first carries it (καὶ ὁ μέλλων αὐτῷ προσηλοῦσθαι πρότερον αὐτὸν βαστάζει).³⁹ In the introduction I showed that *stauros* in this usage in classical authors (and the NT) refers to the *patibulum*.⁴⁰ In Chariton's romance the sixteen members of the chain gang, with fetters on their feet and necks, each carry their *patibula* (προήχθησαν οὖν πόδας τε καὶ τραχήλους συνδεδεμένοι ἕκαστος αὐτῶν τὸν σταυρὸν ἔφερε).⁴¹ In the narrative Mithridates sends his people to save Chaereas from crucifixion: εὔρον δὲ τοὺς μὲν ἄλλους ἀνηρτημένους, ἄρτι δὲ ἐκεῖνον ἐπιβαίνοντα τοῦ σταυροῦ (they found the others suspended, but he [Chaereas] was just ascending his cross).⁴² Basos, for example, ordered that a cross be set up so that he could immediately suspend Eleazar (ὁ μὲν γὰρ προσέταξε καταπηγνύναι σταυρὸν ὡς αὐτίκα κρεμῶν τὸν Ἑλεάζαρον).⁴³ Expressions such as "lead to a cross" (*agere in crucem*) and "lift up on a cross" (*tollere in crucem*) imply that those who had not already been attached to a *patibulum* in some fashion were nailed or otherwise attached to standing crosses. Plautus envisions a slave who states: *Ego dabo ei talentum primus qui in crucem excucurrerit / sed ea lege, ut offigantur bis pedes, bis bracchia* (I will give a talent to the person who will run to the cross, but on the condition that his feet and hands are double nailed).⁴⁴ This evidence warrants Zestermann's thesis.

Perd. 11 (*crucem ... defigi*), 28 (*crucem T. Labienus in campo Martio defigendam putavit* [T. Labienus ordered a cross to be set up in the Campus Martius]). Cp. *lex Puteolana* II.12 *crucis statuere* (set up crosses). Pl. Most. 359 *in crucem excucurrerit* (run to the cross). Cic. Q. fr. 1.2.6. *illum crucem sibi ipsum constituere* (he erected a cross for himself).

³⁷ Chapt. 5 § 1.4.2 (*agere in crucem*), intro. § 3.2 (*tollere in crucem*). Cp. Prudentius, Peri. 10.641 *Crux illa nostra est, nos patibulum ascendimus* (that *crux* is ours, we ascend our *patibulum*).

³⁸ Zestermann, *Die Kreuzigung*, 382-3.

³⁹ Artemidorus Onir. 2.56.

⁴⁰ Intro. § 3.2.

⁴¹ Chariton Chaer. 4.2.7. This is another example of synecdoche ("whole for the part"). See the intro. § 3.2

⁴² Chariton Chaer. 4.3.5. Cp. 4.4.10 ἐπὶ σταυρὸν ἀνέβην διὰ σέ (I went up on a cross because of you), 5.10.6 εἰ ἐπὶ τὸν σταυρὸν ἀνέβαινον, ὃν ἔπηξέ μοι κατηγορία ψευδῆς ἐν Καρίᾳ δεδεμένῳ (... if I had gone up on the cross, which a false accusation had set up for me when I was in chains in Caria).

⁴³ Josephus B.J. 7.202. Cp. Lucian Peregr. 45 τις ἐπὶ σταυρὸν ἀναβήσεσθαι μέλλων (one about to go up on a cross).

⁴⁴ Pl. Mos. 359-60.

Ropes or nails (or perhaps both) could be used to fix the criminals to their crosses.⁴⁵ Plautus's text above implies that both the hands and feet of the condemned could be nailed to crosses.⁴⁶ The remains of Jehohanan ben Hagqol are archaeological evidence of the nailing of feet to either side of the vertical beam (as in the Puteoli graffito in which both feet are attached to either side of the vertical beam [figures 5-7, 11-13]). The nail found in Jehohanan's right calcaneum was 11.5 cm long. Joseph Zias and Eliezer Sekeles write, in addition, that "the lack of traumatic injury to the forearm and metacarpals of the hand seems to suggest that the arms of the condemned were tied rather than nailed to the cross."⁴⁷ The Pereire gem (figure 14), on the other hand, shows fetters around the arms of the crucified Christ, and the gem was made when the Romans were still practicing crucifixion. The use of ropes receives some confirmation from Xenophon's romance: ἀναστήσαντες τὸν σταυρὸν προσαρτώει, σπάρτοις τὰς χεῖρας σφιγξάντες καὶ τοὺς πόδας· τοῦτο γὰρ τῆς ἀνασταυρώσεως ἔθος τοῖς ἐκεῖ (setting up a cross they suspended him, tightly binding his hands and feet with ropes; this is the custom of those in that place [Egypt]).⁴⁸ The *Acta Andreae*, although legen-

⁴⁵ Ropes: Plin. Nat. 28.46, Xenophon Eph. 4.2.3 (said to be an Egyptian practice), *lex Puteolana* II.9 (for binding or flogging), Esther Rabbah 10.5 (ropes and nails), which presumably reflects Roman practice (Chapman, *Ancient Jewish and Christian Perceptions*, 168-169), the amulet in chapt. 2 § 3.2.3, and the *Acta Andreae* (below). Nails: chapt. 2 § 3.1.4, 3.4.4, 3.5.5, 3.8.5, 3.24.1, John 21:25, Sen. Dial. 7.19.3, *lex Puteolana* II.12, Luc. 6.547, Aug. Civ. 19.23 and Lact. Inst. 4.13.11 (oracles describing the bitter death of Jesus), Esther Rabbah 10.5, m. Shabb. 6:10, y. Shabb. 6.9 (8c), T-S Arabic 44.44 (2/18; cf. Naveh and Shaked, *Amulets*, 220-22), the references in Hengel, *Crucifixion*, 31-32, and Chapman, *ibid.*, 319 s.v. "nails" (106, 186, 238, and 266 should be added to his index). Zestermann, *Die Kreuzigung*, 390 argues that *trabales clavi* (beam nails) were used. Cf. P.-Nol. Carm. 27.435 (CSEL 30, 281 Hartel) *corpora transfixos trabalibus inclita clavis* (famous bodies transfixed by beam nails [Vitalis, Agricola, Proculus]). Ambr. Exh. virg. 1.4-5, however, claims that Vitalis was tortured to death and only Agricola was crucified. Cf. BHL § 8689. Proculus is a historical cipher (cf. *ActaSS* Nov. II/1 [1894], 291). On nails, cf. Hinard and Dumont, *Libitina*, 118-119 and Cook, *Envisioning Crucifixion*, 270-272.

⁴⁶ Tertullian confirms this with his quotation of Ps 21:17 LXX (Marc. 3.19.5): *foderunt, inquit, manus meas et pedes, quae propria atrocitas sunt crucis* (they pierced, he says, my hands and feet, which are the special savageries of the cross). Cf. Ps 21:17 LXX ὥρυξαν χεῖράς μου καὶ πόδας. Cp. Zestermann, *Die Kreuzigung*, 396.

⁴⁷ Zias and Sekeles, *The Crucified Man*, 26. Zias, in a personal communication (17 April 2013), writes: "There were no signs of trauma on the forearms whatsoever, what one sees here [in the skeletal remains] is simple discoloration which appears on skeletons lying in a tomb after 2,000 years, nothing more."

⁴⁸ Xenophon Eph. 4.2.3. Zestermann's (*Die Kreuzigung*, 393) ref. to a tradition in *ActaSS* Iun. IV (1867), 468 [Marcus and Marcellianus] *ad stipitem ligati, in pedibus acutos, acceperunt clavos ... lancea per latera transfixi* (bound to a stake, they received sharp nails in their feet ... they were pierced by a lance) is not good evidence, because it is from Usuardus's eighth century martyrology. Cf. BHL § 5302.

dary, probably dates to the second or third century and so may reflect a knowledge of methods of crucifixion:

When those came [οἱ δῆμιοι, the executioners], they only bound his feet and his arm-pits, not nailing either his hands nor his feet; nor did they cut his knees ...

Κάκεινοι ἐλθόντες μόνον ἀπέδησαν αὐτοῦ τοὺς πόδας καὶ τὰς μασχάλας, μηδὲν προσπερονήσαντες αὐτοῦ, μήτε τὰς χεῖρας μήτε τοὺς πόδας μήτε μὴν τὰς ἀγκύλας ὑποτεμόντες ...⁴⁹

The author could write fiction, of course, but if was a good storyteller then he probably used details that his readers would have been familiar with from Roman life. In other words, it was possible for the Romans to bind people with ropes to crosses.

A text of Hilary of Poitiers perhaps reflects some memory of Roman practice:

But was it perhaps the pain of a body hanging on the cross, or the violent bonds of the cords that bound him, or the cruel wounds where the nails were driven in that are to be feared? Let us see of what body the man Jesus was, that pain should dwell in His suspended, bound, and pierced body.

*Sed forte penduli in cruce corporis poena et colligantium funium uiolenta uincula et adactorum clauorum cruda uulnera sunt timori! Et uideamus cuius corporis homo Christus sit, ut in suspensam et nodatam et transfossam carnem dolor manserit.*⁵⁰

Hilary lived in the fourth century, not long after Constantine had abolished the penalty. One can perhaps also argue that Augustine preserves an accurate account of Roman crucifixion:

The crucified, suspended on the wood of a cross, and attached to the wood with nails in their hands and feet, are executed by means of an extended death. Indeed to be crucified is not to be killed; for one lived for a long time on a cross, not because a longer life was chosen, but because the death itself was prolonged, lest the pain be finished quicker.

*pendentes enim in ligno crucifixi, clauis ad lignum pedibus manibusque confixi, producta morte necabantur. non enim crucifigi hoc erat occidi; sed diu uiuebatur in cruce, non quia longior uita eligebatur, sed quia mors ipsa protendebatur, ne dolor citius finiretur.*⁵¹

⁴⁹ Acta Andreae 54 (CChr.SA 6, 517,13-16 Prieur); On the date, cf. J. K. Elliott, *The Apocryphal New Testament*, Oxford 1993, 235-6. J.-M. Prieur, *Acta Andreae. Praefatio – Commentarius*, CChr.SA 5, Brepols 1989, 413-4 places the date of composition between 150-200. For his arguments against the historicity of Andrew's crucifixion cf. *ibid.*, 80-1. See also *Martyrium prius Andreae* 15 (CChr.SA 6, 700,1-2 Prieur) Καὶ εἰπόντος αὐτοῦ ταῦτα προσελθόντες οἱ δῆμιοι κατέδησαν αὐτοῦ τὰς χεῖρας καὶ τὰς πόδας καὶ οὐ καθ'ήλωσαν αὐτόν (And when he [Andrew] said this, the executioners came and bound his hands and feet and did not nail him).

⁵⁰ Hilar. Trin. 10.13 (CChr.SL 62A, 469,17-21 Smulders). Trans. NPNF 9.185 modified. He probably wrote it while in exile in the East (357-360). Cf. C. L. Beckwith, *Hilary of Poitiers on the Trinity*. From *De Fide* to *De Trinitate*, Oxford 2008, 8-9.

⁵¹ Aug. Tract. Io. 36.4 (CChr.SL 326,42-6 Willems).

The crucified were placed in different poses: upright or head downwards.⁵² Individuals were often crucified nude, or perhaps with a loincloth or some other type of garment such as the short tunic in the Palatine graffito.⁵³ The individual in the Puteoli graffito (Alkimilla) wears no garment.⁵⁴ The crosses may have had a seat (*sedile*) or a small foot-rest (*suppedaneum*).⁵⁵ Sometimes they were exceptionally high or could be seen from a long distance.⁵⁶ Occasionally a *titulus* (placard) was placed on the cross.⁵⁷ The magistrate's sentence would have been read from such a placard even if it was not placed over the cross.⁵⁸ Either a public executioner (*carnifex*, δῆμιος) or a military

⁵² Different configurations: chapt. 2 § 3.5.3?, 3.8.5, 3.24.1, and Sen. Dial. 6.20.3. Cal-liopus (a late martyrology) in Synaxarium Eccl. Const. April. 7.2 (590,20 Delehayé): Σταυρωθεὶς τοῖνυν κατὰ κεφαλῆς (crucified head downwards). Cf. ActaSS April. I (1866) 657-8 for other refs. (BHG § 290). Symeon Metaphrastes depicts a similar death for the apostle Philip (Vita S. Phil. Maius 1 [PG 115.196A-B]): εἶτα σχοινίοις τῶν ἀστραγάλων ἐξάψαντες, ἐπὶ μετεώρου κατὰ κεφαλῆς ἀναρτῶσι (then binding his ankles with ropes, they hung him up in the air head downwards). For other legends, cf. ActaSS Maius I (1880) 7-9. See BHG § 1527.

⁵³ John 19:23, chapt. 2 § 3.2.3 (the amulet), § 3.5.3, § 3.14 (no garment is visible in the graffito of Alkimilla, but in the Palatine graffito the individual wears some kind of tunic), Sifre Deut. 21:22 § 221 (perhaps: the Roman practice of crucifixion of living people is contrasted with the Jewish suspension of executed individuals without their garments). In Esther Rabbah 3:14 there is a statement that God punishes the wicked in Gehenna naked, and it is followed by the proverb about brigands crucified where they rob, perhaps reflecting Roman practice of crucifying people nude. Cf. Chapman, Ancient Jewish and Christian Perceptions, 192. See figure 10. On the garment in the Palatine graffito, cf. Cook, Envisioning Crucifixion, 284 (the garment is short, however, and so may not be a *colobium* [Professor Felicity Harley-McGowan calls it a "short tunic"]). On the meaning of "nude" (γυμνός), which is consistent with wearing an inner garment, cf. Cook, Roman Crucifixions, 18 and chapt. 2 § 3.5.3.

⁵⁴ Chapt. 2 § 3.14 and figures 5-7.

⁵⁵ *Sedile*: chapt. 2 § 3.14 (in the graffito there is a clear depiction of a peg on which the individual sits), Justin Dial. 91.2, Tert. Nat. 1.12.3-4, and Iren. 2.24.4. *Suppedaneum*: in the Palatine graffito (reference in chapt. 2 § 3.5.3 and figure 10) there is a *suppedaneum* (and perhaps a *sedile*). See also Cook, Envisioning Crucifixion, 282-284.

⁵⁶ High: chapt. 2 § 2.13, 3.1.4, 3.6; higher than a neighboring cross: § 3.5.4. Cic. Ver. 2.4.26 (a cross outside the town and harbor of Messana visible to those approaching from Italy). For other comments on crosses' height, cf. Pl. St. 625, Plin. Nat. 14.12 (a joke about a high cross on which a vine hangs), Iamblichus Babyl. 22 = Photius Bibl. Codex 94, 78a, Artemidorus Onir. 2.53, 4.49 and Ps. Manetho Apotelesmatica 5.219-21. Cf. Hengel, Crucifixion, 40. In this context one should perhaps consider the use of ὑψωθῆναι (be raised up) in John 3:14, 8:28, 12:32-34 etc. Cp. Frey, Die „*theologia crucifixi*“, 188 (on the possible double meaning of the verb [i.e., also "exalt"] in John), 223-4.

⁵⁷ Mark 15:26 par., chapt. 2 § 3.1.2 (probably), [Quint.] Decl. min. 380.2.

⁵⁸ Cf. Mommsen, Strafrecht, 447-8, Cook, Roman Attitudes, 167, Zestermann, Die Kreuzigung, 373-4 (e.g., Suet. Cal. 32.2 *a tabella* carried in front of a slave announcing his punishment, M. Pion. 20.7, Pass. Cyp. 4.3, etc.).

authority such as a centurion carried out the crucifixions.⁵⁹ The locations of the crucifixions were often in designated spaces outside the city.⁶⁰ Blood is a motif in some of the accounts of crucifixion.⁶¹ The amount of blood that flowed probably depended on the tortures that preceded the crucifixions. Women were crucified.⁶² Although the detail is rare, some narratives refer to words spoken by crucified individuals, their songs, or even their smiling (mocking) at death.⁶³ Some authors identify what crucified individuals see,

⁵⁹ δῆμιος; (executioner) Lucian Peregr. 34, Chariton 4.3.10; *carnifex* (executioner): Cic. Rab. Perd. 10, 11, 16, Ov. Am. 1.12.17-8, [Quint.] Decl. 6.9; centurion: Mark 15:39 par; *miles* (soldier): Petr. 111.5-6 (at the command of an *imperator* [governor]); *tribunus* (a tribune and his troops, the *Ascarii*): Ammianus Marcellinus Res gestae 27.2.9.

⁶⁰ Location: § 2.1.1 (Campus Martius), 2.1.3 (outside the wall of Salapia), 2.10.1 (the Appian way), 3.8.4-5 (outside the walls of Jerusalem), 3.8.6 (the road from Tekoa to Jerusalem), Mark 15:22 par., Cic. Rab. Perd. 10-11 (Campus Martius for crucifixions), Cic. Ver. 2.5.169 (the via Pompeia in Messana and the nearby sea coast), Cic. Rab. Perd. 28 (Campus Martius), and *lex Puteolana* II.3-4 (a space called *Libitina*, one of whose functions was for executions), Pl. Mil. 359 (carrying the *patibulum* beyond the gate [the Esquiline]), Ps. 331-335, Cf. Hinard and Dumont, *Libitina*, 112-113 and Cook, *Envisioning Crucifixion*, 279-281. Famous bandits were crucified where they committed their crimes (Callistratus [era of Septimius Severus and Caracalla] De cogn. 6 apud Dig. 48.19.28.15 [*furca* has replaced *crux*]). Cf. chapt. 2 § 3.16.1 (on the site of the crime), 3.21.1 (the road from Rome to the imperial country estates), [Quint.] Decl. min. 274.13 (crucifixions on highly frequented roads to deter crime), § 3.9 (the arena in Cumae), Esther Rabbah 3.14 (“where the brigand robs, there he is crucified,” a proverb in midrashic literature). Cf. Zestermann, *Die Kreuzigung* 375 for a summary.

⁶¹ Blood: Col 1:20, Josephus Ant. 19.94 (a great deal of artificial blood associated with a mime of a crucified robber chief), Sen. Ep. 101.13 (assuming that *stilicidia* refers to drops of blood), Cic. Ver. 2.4.26 (Gavius’s cross still dripped with blood after his corpse was removed), V. Max. 6.9 ext. 5 (blood of a decaying corpse), Origen C. Cels. 1.66 and 2.36 (Celsus mocking Jesus’ blood on the cross using Homer Il. 5.340), m. Ohol. 3:5 (a crucified man under whom a quarter-*log* of blood is found = a quarter of the content of six eggs), t. Ohol. 4.11 (quarter-*log*), b. Nid. 71b (quarter-*log*; R. Judah: the drop of death might remain on the beam). Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 196-199. Hengel’s attempt to show that crucifixion was inherently bloody is questionable (*Crucifixion*, 31-32).

⁶² Chapt. 2 § 3.2.1, 3.14, *lex Puteolana* II.8 (*serva*, slave woman), Pl. Aul. 58-59 (a threat to crucify an old slave), Petr. 113.2 (the matron of Ephesus should be crucified), Apul. Met. 6.31.1 (a proposal to fix a young woman [Charite] to a *patibulum*), Iustinus Epit. 30.2.6-7 (alleged crucifixion of Agathocles’ mother and sister; contradicted by Polybius 15.33.7-9).

⁶³ Words: Mark 15:34 par (etc.), Origen C. Cels. 2.55 (Celsus mocks Jesus’ last cry on the cross), Sen. Con. 7.7.pr., 7.7.5 (in both texts a son, crucified because of his father’s betrayal, says, “beware treachery” [*cavete proditorem*]), Ov. Pont. 1.6.38 (one who hangs from a cross makes vows or prayers [*vota*]), Sen. Dial. 7.19.3 (an image in which people insult and spit on others while hanging on their *patibula*), Quint. Inst. 7.1.29-30 (same text as the elder Seneca’s), 8.2.4 (words that “fall” from the cross [*de cruce uerba ceciderunt*]), t. Git. 5.1 (Lieberman = 7[5].1 Zuckerman) a bleeding crucified man gestures for a decree of divorce [*git*] to be written), y. Git. 7.1 (48c; the crucified man gestures and says, “write a *git*”), b. Git. 70b (gestures and asks for a *git* to be written). See Chapman, *Ancient Jewish and Christian*

including Cicero (Gavius's vision of Italy).⁶⁴ John 19:33 mentions a proposed *crurifragium*, and a few texts include crucifixion and *crurifragium* in the same sentence, but do not specifically say that crucified individuals' legs were broken.⁶⁵ The incident in John 19:34 has been compared with Ps. Quintilian's text: *cruces succiduntur, percussos sepeliri carnifex non vetat* ("crosses are cut down and the executioner does not prevent those who have been pierced [or 'struck'] from being buried").⁶⁶ In the case of Gavius of Consa his cross apparently remained in place for several years.⁶⁷ Zias and Sekeles assume that the Romans probably reused the horizontal and vertical elements of crosses, due to the scarcity of wood around Jerusalem.⁶⁸ Crucified bodies could rot on crosses or be buried.⁶⁹ In one case individuals were taken down

Perceptions, 197-199. Cf. chapt. 2 § 2.9 for the slave whose tongue was cut out so he would not make an accusation with his dying breath on the cross. Songs: chapt. 2 § 3.1.1. Smiling at death: chapt. 2 § 3.8.3, Iamblichus Babyl. 22 = Photius Bibl. Codex 94, 78a (Rhodanes rejoices high on his cross, wanting to die).

⁶⁴ John 19:26, chapt. 2 § 3.5.4, Cic. Ver. 2.5.169, Sen. Con. 7.7.9 (a hypothetical statement: a crucified son can see the father who betrayed him), Sen. Dial. 1.3.10 (Regulus cannot sleep while on his cross), Josephus A.J. 13.380 (the crucified victims of Alexander Jannaeus watched the slaughter of their wives and children), Chariton Chaer. 3.4.18 (a crucified pirate captain watches the sea).

⁶⁵ Both penalties mentioned: Aurelius Victor Caes. 41.4 (Constantine abolished both: *vetus teterrimumque supplicium patibulorum et cruribus suffringendis primus removerit*), Ruf. Hist. 11.22 (*alios patibulis adfigentes, alios confractis cruribus*), Sozomen H.E. 7.15.4 (Rufinus and Sozomen describe a lynching of Christians in Alexandria around 391), Firmicus Maternus Math. 8.6.11, Iustinus Epit. 21.4.7 (a rebellious Carthaginian is scourged, blinded, has his legs broken, and his corpse is nailed to a cross). *Crurifragium* only: Polybius 1.80.13 (rebels use it against Carthaginian prisoners); Pl. As. 474, Mil. 722, Poen. 886; Cic. S. Rosc. 56, Phil. 13.27, Fat. 6; Sen. Dial. 3.18.1, 3.32.1; Suet. Aug. 67.2, Tib. 44.2; SHA Avidius Cassius 4.5; Eus. H.E. 5.21.3, 8.12.1 (Christian martyrs in Cappadocia); and Ammianus 14.9.8. Tert. Apol. 21.19 (*praeuento carnificis officio*) and Lact. Inst. 4.26.32 (*necessarium carnifices non putauerunt ossa eius suffringere, sicut mos eorum ferebat*) insist that it was not necessary for the executioner to break Jesus' legs, as was usual in cases of crucifixion. Cp. Origen C. Cels. 3.32 (176,24-7 Marc.). On the issue, cf. E. Koskeniemi, K. Nisula, and J. Toppari, Wine Mixed with Myrrh (Mark 15.23) and *Crurifragium* (John 19.31-32): Two Details of the Passion Narrative, JSNT 27 (2005) 379-91, esp. 386-9.

⁶⁶ [Quint.] Decl. 6.9. Cf. chapt. 1 § 2.9 (Origen Comm. Ser. Mat. 140, Matt 27:54).

⁶⁷ Cic. Verr. 2.4.26.

⁶⁸ Zias and Sekeles, The Crucified Man, 26 with ref. to Josephus Bell. 5.522-3 where the Romans have to go ten miles to obtain wood for their siege machines.

⁶⁹ Burial: chapt. 2 § 3.3.2, Josephus Bell. 4.317, Mark 15:43 par., Semahot 2.9 (44b: the possibility of burial of those executed by the Romans). Ulpian, 9 De officio proconsulis in Dig. 48.24.1 (bodies of the executed are not withheld from families) and cp. PS 1 in Dig. 48.24.3. Cf. B. Fabbrini, La deposizione di Gesù nel sepolcro e il problema del divieto di sepoltura per i condannati, SDHI 61 (1995) 97-178 and Cook, Crucifixion and Burial, 193-213. Left to rot: Sen. Con. 8.4.1, Hor. Ep. 1.16.48, Petr. 58.2, Juv. 14.77-78, Pl. Mil. 372-3, Luc. 6.543-9, Artemidorus Onir. 2.53, Ps. Manetho Apotelesmatica 4.200, Semahot 2.11 (44b).

alive from crosses.⁷⁰ The death was probably drawn out.⁷¹ Some remarks on the medical causes for death by crucifixion are in order since it has been such a topic of fascination for readers of the New Testament.

2 *The Medical Causes of Death from Crucifixion*

There are numerous medical hypotheses concerning the reason for an individual's death on a Roman cross. One recent discussion by Matthew W. Maslen and Piers D. Mitchell lists the following possibilities that have been raised in the literature to explain the death of Jesus or "crucifixion in general": "cardiac rupture, heart failure, hypovolaemic shock, syncope, acidosis, asphyxia, arrhythmia plus asphyxia, pulmonary embolism, voluntary surrender of life, did not actually die."⁷² All ten studies were written by individuals with advanced medical training including physicians, a forensic pathologist, a pathologist, surgeons, and a hematologist.

Two modern punishments are worth mentioning. In Amoy, China on 28 Oct. 1863 (a Wednesday), a criminal was crucified who had kidnapped young girls and sold them into prostitution. Before the crucifixion he had been "scourged until his back was raw." He was still alive on the following Saturday, when his legs were broken and he was strangled:

The cross was of the Latin form, the foot being inserted in a stout plank, and the criminal, standing on a board, had nails driven through his feet, his hands stretched and nailed to the cross-beam. His legs were fastened to the cross with an iron chain, and his arms bound with cords, and on the cord round his waist was inserted a piece of wood on which was written his name and offence; a similar piece on his right arm contained his sentence

⁷⁰ Chapt. 2 § 3.8.6, Mark 15:30 par (a mocking challenge), Anthologia Latina 415.23-24 (a criminal hanging on the cross hopes to be brought down), Chariton Chaer. 4.3.5-6 (Chaereas is told to come down from his cross as he is ascending it), Chaer. 8.8.4 (in a revision of the story, Chaereas almost dead, is taken down from his cross), Xenophon Eph. 4.2.6 (a gust of wind releases Habrocomes, attached by ropes, from his cross), Iamblichus Babyl. 2 = Photius Bibl. Codex 94, 74a (Rhodanes is taken down from a cross), Iamblichus Babyl. 22 = Photius Bibl. Codex 94, 78a (Rhodanes is taken down from a cross), y. Yeb. 16.3 (15c; in a hypothetical situation a matron redeems an individual from a cross), Midr. Ps. 45:5 (a matron redeems three people while they were going out to their crosses). Cf. Chapman, *Ancient Jewish and Christian Perceptions*, 198.

⁷¹ Cf. chapt. 2 § 3.8.6 and the legend of Timothy and Maura (§ 3.8.6). Seneca's (Sen. Ep. 101.13) *stilicidia* (drops) is probably good evidence of the length of time it took to die. Cp. the reference to the crucifixion in nineteenth century China discussed below.

⁷² Cf. M. W. Maslen and P. D. Mitchell, "Medical Theories on the Cause of Death in Crucifixion," *Journal of the Royal Society of Medicine* 99 (2006) 185-188, esp. 186 with bibliography for the ten studies. They dismiss any research that is based on the shroud of Turin, which is apparently a mediaeval forgery. Cf. P. E. Damon, D. J. Donahue, B. H. Gore, et al., "Radiocarbon Dating of the Shroud of Turin," *Nature* 337 (1989) 611-615.

– namely, to remain on the cross day and night until he died; another on his left arm had the name of the judge, with his titles and offices. The criminal was nailed to the cross inside the Yamun in the presence of the magistrate, and then carried by four [men]⁷³ to one of the principal thoroughfares leading from the city, where he was left during the day, but removed at night inside the prison for fear of his friends attempting to rescue him, and again carried forth at daylight in charge of two soldiers. He was crucified at noon on the Wednesday, and Mr. Jones conversed with him at five in the evening. He complained of pain in the chest and thirst. On Thursday he slept for some hours when the cross was laid down within the gaol compound. No one was allowed to supply him with food or drink, and during the day there was quite a fair in front of the cross, people being attracted from a distance, and the sweetmeat vendors driving a large trade. On Saturday he was still alive, when the Taotai was appealed to by a foreigner to put an end to the wretch's sufferings, and he immediately gave orders that vinegar should be administered, which he expected would produce immediate death; but the result was otherwise, and at sunset, when the cross was taken to the gaol, two soldiers with stout bamboos broke both his legs and then strangled him. Mr. Jones says that all the Chinese with whom he has conversed assert that crucifixion is a modern punishment; and looking at the similarity of passages in the execution with the narratives of the New Testament, he conceives the idea may have been introduced through the Jesuits.⁷⁴

Clearly the criminal did not die by asphyxiation, but the punishment meets the criteria enumerated in the introduction for a crucifixion since the executioners apparently intended that the criminal die on his cross. As in the depiction of crucifixion in the Palatine graffito, there was a board to stand on (*suppedaneum*). Two words in Japanese reflect the use of crucifixion for criminals.⁷⁵ There is a nineteenth century Japanese scroll, itself a copy of an eighteenth century print, of a crucifixion from the Tokugawa period (see figure 17).⁷⁶ The crucified man's legs are stretched apart on a transverse beam attached

⁷³ I have replaced an ethnic slur here.

⁷⁴ J. Jones, On the Punishment of Crucifixion in China, Transactions of the Ethnological Society of London N.S. 3 [1865] 138-139. J. McGowan, Men and Manners of Modern China, New York, 1912, 161-2 witnessed another crucifixion in China during which the robber's feet were nailed to two small planks that projected from the vertical beam. His shoulders were roped to the cross beam to prevent his body "from sinking under the pain and agony it was enduring ..." This prevented his hands, which were nailed through the palms to the transverse beam, from being torn from the nails. Hundreds of people watched him as he died silently. McGowan mentions no other method of execution such as strangulation in this case.

⁷⁵ F. Brinkley, F. Nanjō and Y. Iwasaki, An Unabridged Japanese-English Dictionary, Tokyo 1896, 304 "*haritsuke*: punishing criminals by crucifixion and spearing," 508 "*Jūjika*: A wooden frame of the form of the Chinese character 十 (ten), used in the crucifixion of criminals; a cross." I am informed by a native speaker that the latter word is the one used in the Japanese Christian community (NT, etc.), although in a new ecumenical translation *haritsuke* is used in Esth 7:9, Ezra 6:11, and Gal 6:14.

⁷⁶ D. V. Botsman, Punishment and Power in the Making of Modern Japan, Princeton 2005, 17 describes it so. "A Tokugawa period crucifixion as originally depicted by Maruyama Ōkyo (1733-95) and later copied by the Meiji era artist Terasaki Kōgyō (1866-1919). Terasaki Kōgyō, Ōkyo ga nanfuku zu mosha (Tokyo: Tōyōdō, 1890)."

four to five feet above the ground. His wrists are attached to a higher transverse beam by ropes, and he is being pierced in the inter-costal muscles between his ribs on each side by two spears held by executioners standing on either side of him.⁷⁷ The executioners pierced the victim repeatedly with their spears.⁷⁸ Daniel V. Botsman notes that “As one lowered his spear in front of the condemned person’s face, forcing him to examine its specially elongated tip, the other thrust his spear into the side of the prisoner’s gut, pushing it diagonally upward until it protruded below the opposite arm pit.” After pulling the spear out, the other executioner did the same thing, and the process continued so. Botsman refers to an “official manual” from the “early nineteenth century” that describes the method used for *haritsuke* (“stringing up”) in detail – the same method used in the scene on the scroll.⁷⁹ This practice (*haritsuke*) can be traced to twelfth century Japan and so precedes the arrival of Jesuit missionaries in the sixteenth century.⁸⁰ A horrific photograph made ca 1865-68 by Felice Beato shows the crucifixion (*haritsuke*) of a young man named Sokichi on the same type of frame in the print described above but with no boards under his feet (see figure 18). He had apparently killed the son of his master. Another of Beato’s photographs depicts Sokichi’s execution, but there are six disembodied heads mounted on frames in front of the crucified Sokichi (see figure 19).⁸¹ In a shed in the background are some individuals watching the spectacle who belong to the “Eta or pariah class” according to a description of the photograph in the Smith College Museum. They apparently carried out the *haritsuke* and were responsible for burying the

⁷⁷ Professor of Anatomy William Paschal informs me that the spear would then pass through the parietal pleura and into the thoracic cavity where it would penetrate the visceral pleura of the lung.

⁷⁸ G. P. A. Levine, *Daitokuji. The Visual Cultures of a Zen Monastery*, Seattle/London 2005, 129.

⁷⁹ Botsman, *Punishment*, 16-7. Fifteen individuals were crucified in Edo from 1862 to 1865 (*ibid.*, 17-8), however eight of them were post-mortem crucifixions. The manual, in his reference (234, n. 11), is: “‘Keibatsu daihiroku’ [ca 1819], National Archive of Japan.” See Iyoku Hideaki, ed., *Hōsei shiryō kenkyū* 1, Tokyo 1994, 349-75 for the text.

⁸⁰ Botsman, *Punishment*, 17.

⁸¹ Photographs of Sokichi alone: W. A. Ewing, *The Body. Photographs of the Human Form*, San Francisco 1994, 250, and Nagasaki University Library, ID # 2980, Cabinet 59 65 0, album of Felice Beato, 20.0 x 25.2 cm (figure 18). The entire scene (figure 19) is also in C. Worswick, *Japan. Photographs 1845-1905*, New York 1979, 32 (he was “a servant guilty of killing Nikisasuro, son of his master Nuiske at the village of Kiso. Albumen print 28.5 x 22.5 cm” [Worswick does not specify the source for this information, although it is almost certainly from Beato’s own two volume work *Native Types and Views of Japan* also titled *Photographic Views of Japan with Historical and Descriptive Notes, Compiled from Authentic Sources, and Personal Observation During a Residence of Several Years (with letterpress by James W. Murray, Yokohama 1868) [non vidi]*, cf. Worswick, 133 with a very poor bibliographic reference]). *Photographic Views ...* was apparently published in 1869.

corpses. Exposure of the head after decapitation was considered disgraceful.⁸² The latter punishment was called *gokumon*.⁸³ According to Clark Worrick, a caption from 1868 reads:

In the country of the gods, he who lifts his hand against his parents or against the elders of his family, against his master or his teacher is reckoned guilty of a foul and heinous crime, and is condemned to die by spears upon the cross.⁸⁴

The entire scene is reminiscent of the Roman spectacles of death so ably investigated by Kathleen M. Coleman, and Donald G. Kyle.⁸⁵

Zias, an osteoarchaeologist, after mentioning that there is no longer any direct evidence for crucifixion, refers to a punishment used in WW II in which prisoners were suspended by attaching their wrists to bars. They consequently experienced “a weakening of the muscles used in respiration.” It took on average three hours to die or even six if the wrists were separated from one another.⁸⁶ His source is Pierre Barbet’s work, which itself was based on that of Antoine Legrand. Legrand spoke with two eyewitnesses of the Dachau torture described above. One was a man from Luxembourg named R. Gieser who was forced into the army and deported to Dachau. The other was a French priest (only identified by his initials “G. D.”) who was also imprisoned in Dachau because of his clandestine aid to the youth of the *Service du travail obligatoire* in Germany.⁸⁷ This testimony is similar to that of other survivors who describe a torture in which prisoners were suspended from poles with

⁸² Cf. <http://museums.fivecolleges.edu/detail.php?museum=all&t=objects&type=all&f=&s=beato&record=78> (last accessed 26 August 2013).

⁸³ Botsman, Punishment and Power, 20, 22 (image). Botsman notes that “between 1862 and 1865”, that “123 cases” of *gokumon* were “recorded for Edo.”

⁸⁴ Worrick, Japan, 32.

⁸⁵ Coleman, *Martial. Liber Spectaculorum*, passim, idem, *Fatal Charades: Roman Executions Staged as Mythological Enactments*, JRS 80 (1990) 44-73, idem, “Informers” on Parade, in: *The Art of Ancient Spectacle*, ed. B. Bergmann and C. Kondoleon, *Studies in the History of Art* 56, New Haven/London 1999, 231-45, Kyle, *Spectacles of Death in Ancient Rome*, passim

⁸⁶ J. Zias, *Current Archaeological Research in Israel: Death and Disease in Ancient Israel*, BA 54 (1991) 147-159, esp. 154 with ref. to P. Barbet [Zias used the 1953 English ed.], *La passion de Jésus Christ selon le chirurgien*, Paris 1965 (first published 1950), 110-112. Barbet (110-1) refers to a punishment in the Austro-German army in WW I he calls “aufbinden” in which an individual was suspended by the wrists, which resulted in asphyxiation (the duration is not specified). He (111-112) also discusses the testimony of two witnesses at Dachau based on an article of A. Legrand, *Du gibet du Golgotha à ceux de Dachau*, *Médecine et Laboratoire* 19 (December 1952) 391-393.

⁸⁷ Legrand, *Du gibet du Golgotha*, 392-393 (some individuals took three to six hours to die if their wrists were outstretched). P. M. Neurath, an Austrian political prisoner in Dachau and Buchenwald, noted that individuals were hung with their wrists behind their backs, usually for an hour, but occasionally until they died (*The Society of Terror. Inside the Dachau and Buchenwald Concentration Camps*, Boulder/London 2005, 89).

their wrists tied behind their backs. “Tree hanging” was used in Buchenwald: “an excruciating torture of prisoners in which their hands were tied behind their back and they were then hooked to gallows and strung up.”⁸⁸ A photograph survives of the torture (which could result in death) from Buchenwald.⁸⁹ A Catholic priest held at Dachau describes the punishment called “hanging on the stake” (*Pfahlhängen* or *Baumhängen*) in which prisoners’ wrists were chained behind their backs. The victims were then suspended for an hour or more. “On one Good Friday over 200 were hanged on the stake.”⁹⁰ In one account by a German Catholic priest interned by the Czechs at Linzer-vorstadt after the war, a German prisoner was suspended on a pole for four or five hours (a non-lethal punishment in this case).⁹¹

These repellent narratives are relevant – although *haritsuke* appears more apposite than the examples of “tree-hanging” from the holocaust. Josephus’s account of the individuals (his three friends) who had been crucified in Tekoa indicates that a person could survive many hours on a Roman cross. Titus had sent Josephus from Jerusalem to Tekoa, and there must have been time for the historian to return to Jerusalem and back again to Tekoa (or at least the place nearby where the crucifixions had taken place) to relay the commander’s order to take the men down from their crosses.⁹² Origen reports that some crucified victims survived an entire night and the day after.⁹³ In addition Maslen and Mitchell refer to some contemporary “humane experimental recreations of certain aspects of crucifixion.”⁹⁴ Their criticisms are important:

The fact that none of the re-enactment research has actually crucified people means that these studies have only limited relevance to genuine cases. The absence of whipping, carrying a heavy cross, being nailed to it, the dehydration from water deprivation and hot

⁸⁸ P. F. Cummins, *Dachau Song*, New York 1992, 94.

⁸⁹ C. König, *Der Dokumentarfilm “KZ Dachau”: Entstehungsgeschichte – Filmanalyse – Geschichtsdeutung*, Munich 2010, 73-4 with ref. to B. Distel et al., *Konzentrationslager Dachau, 1933-1945, Text- und Bilddokumente zur Ausstellung*, Munich 1978, 71.

⁹⁰ He includes a drawing of the torture. See H. M. Malak, *Shavelings in Death Camps. A Polish Priest’s Memoir of Imprisonment by the Nazis, 1939-1945*, Jefferson, NC 2012, 193. This is precisely the description given in a political prisoner’s account. Cf. J. Neuhäusler, *What was it like in the Concentration Camp at Dachau? An Attempt to Come Closer to the Truth*, Munich 1963, 48 (for one hour “according to regulation”). In the variation at Buchenwald, an individual’s arms were wrapped around a trunk behind him and his hands were tied together before he was elevated (he later came to on the ground). Cf. H. Stein, *Buchenwald Concentration Camp, 1937-1945. A Guide to the Permanent Historical Exhibition*, Göttingen 2004, 105.

⁹¹ R. M. Douglas, *Orderly and Humane. The Expulsion of the Germans after the Second World War*, New Haven 2012, 132-3.

⁹² cf. chapt. 2 § 3.8.6.

⁹³ Origen *Comm Ser. Mat.* 140, Matt 27:54 (GCS Origenes XI, 290,13-9 Klostermann). Cf. chapt. 1 § 2.9.

⁹⁴ Maslen and Mitchell, *Medical Theories*, 187.

sun, and the anxiety of their imminent death might all have resulted in somewhat different findings in the modern groups and crucifixion victims 2000 years ago.⁹⁵

One can merely conclude that individuals died from “different physiological causes” and that the orientation of the crucified individuals was also important.⁹⁶ Perhaps some of this material does help one reflect on the suffering of the victims of the Roman empire. An academic colleague notes that the images of *haritsuke* “jar us out of our academic complacency.” The same is true of the tortures used in the holocaust.

3 The Theology of the Cross in Mark

The topic of the theology/theologies of the cross in the New Testament deserves a book in its own right, and indeed hundreds of books and articles have been written on the subject. Martin Luther characterized his entire theology as a *theologia crucis* (theology of the cross): *CRUX sola est nostra theologia* (the cross alone is our theology).⁹⁷ For Luther the theology of the cross is also epistemological: *In Christo crucifixo est vera Theologia et cognitio Dei* (In the crucified Christ are the true theology and knowledge of God).⁹⁸ In the *Heidelberg Disputation* of 1518 Luther distinguishes the theology of the cross from the theology of glory (*theologia gloriae*),⁹⁹ a concept that has occasionally made its way into Markan studies with an altered meaning – for better or

⁹⁵ Maslen and Mitchell, *Medical Theories*, 187, with ref. to F. T. Zugibe, *The Crucifixion of Jesus. A Forensic Enquiry*. New York 2005, 130-5 (hypovolemic shock and not asphyxiation). Zugibe’s research was influenced by the Shroud of Turin.

⁹⁶ Maslen and Mitchell, *Medical Theories*, 188.

⁹⁷ M. Luther, *Operationes in Psalmos* 1519-1521, WA 5.176.32-33. Cf. the convenient summary of references in J. E. Vercruysse, *Luther’s Theology of the Cross at the Time of the Heidelberg Disputation*, Gr. 57 (1976) 523-548.

⁹⁸ M. Luther, *Disputatio Heidelbergae*, Thesis XX (WA 1.362.18-19). Cf. Frey, *Die „theologia crucifixi“*, 177.

⁹⁹ Luther, *Disputatio Heidelbergae*, Thesis XIX (WA 1.361.31-36), using Rom 1:22 (and cp. 1 Cor 1:21-25), rejects the view that the invisible things of God can be perceived in the works of creation (Rom 1:20). Instead in Thesis XX (WA 1.362.1-19), he appeals (ibid. 362.1-2) to 1 Cor 1:21 and 25 to argue that one deserves to be called a theologian who “perceives the visible and hind parts [Exod 33:23 Vulg.] of God through sufferings and the cross (*Sed qui visibilia et posteriora Dei per passiones et crucem conspecta intelligit*).” The person who does not know Christ, does not know that God is hidden in sufferings, but prefers works to the sufferings and glory rather than the cross, power rather than weakness, wisdom rather than foolishness, and generally good to evil (*Patet, quia dum ignorat Christum, ignorat Deum absconditum in passionibus. Ideo praeferit opera passionibus et gloriam cruci, potentiam infirmitati, sapientiam stulticiae, et universaliter bonum malo* [Thesis XXI (ibid. 262,23-25)]).

for worse.¹⁰⁰ For Luther the theology of glory celebrates works as good and hates the cross: “The theology of glory calls evil good and good evil; the theology of the cross says what is the case” (*Theologus gloriae dicit malum bonum et bonum malum, Theologus crucis dicit id quod res est*).¹⁰¹ “They hate the cross and sufferings, and they truly love their works and their own glory, and thus they call the good of the cross evil and the evil of a work they call good” (*Utique quia odiunt crucem et passiones, Amant vero opera et gloriam illorum, Ac sic bonum crucis dicunt malum et malum operis dicunt bonum*).¹⁰² Ulrich Luz adopts a definition of “theology of the cross” – somewhat based on Luther’s – in which the cross is the exclusive foundation of salvation, and all other saving events (e.g., resurrection, parousia) are subordinated to the cross and understood on the basis of the cross.¹⁰³ Such a theology of the cross seen in opposition to a theology of glory or of a theology of the resurrection can only be found in Paul or perhaps Mark.¹⁰⁴ This seems overly narrow, because it excludes the Gospel of John.¹⁰⁵ In my comments here I am going to emphasize the comparison of certain theological affirmations in the New Testament with material from the Greco-Roman world. I have chosen to concentrate on Mark, the Gospel that scholars generally believe is the earliest written.

3.1 Methodology

Kuhn’s methodological point is important: to understand the theology (or theologies) of the cross in the New Testament one should confine the investigation to texts that make theological affirmations about the cross or crucifixion of Jesus (and not simply texts that mention words related to crucifix-

¹⁰⁰ Cf., e.g., W. Telford, *The Theology of the Gospel of Mark*, Cambridge 1999, 50 (*theologia gloriae* is a “triumphalist ‘divine man Christology’”), commenting on T. J. Weeden’s views. See T. J. Weeden, *The Heresy that Necessitated Mark’s Gospel*, in: *The Interpretation of Mark*, ed. W. R. Telford, Edinburgh 1995, 89, 95, 104 (the miracle tradition reflects a Hellenistic “divine man” or “*theios anēr* Christology” – which is the *theologia gloriae* in Mark contrasted by Mark’s own *theologia crucis*). On the fundamental problems of claims about the existence of a clear concept of a *theios anēr* (θεῖος ἀνὴρ) in contemporary Judaism, cf. C. R. Holladay, *Theios Aner in Hellenistic Judaism*, SBLDS 40, Missoula, MT 1977, esp. 236–241. H. D. Betz, *Gottmensch II*, RAC 12 (1982) 234–312 defends, however, the continued use of the concept. For a thoughtful critique of “corrective Christology,” cf. J. D. Kingsbury, *The Christology of Mark’s Gospel*, Philadelphia 1983, 25–46.

¹⁰¹ Luther, *Disputatio Heidelbergae*, Thesis XXI (WA. 1.362.21–22).

¹⁰² Luther, *Disputatio Heidelbergae*, Thesis XXI (WA. 1.362.26–28).

¹⁰³ U. Luz, *Theologia crucis als Mitte der Theologie im Neuen Testament*, *EvTh* 34 (1974) 116–141, esp. 116 (in paraphrase above).

¹⁰⁴ Luz, *Theologia crucis*, 117.

¹⁰⁵ Cf. Frey, *Die „theologia crucifixi“*, 176 n. 33.

ion).¹⁰⁶ He also notes that texts which only generally speak of Jesus' death should not be included in an investigation of the author's theology of the cross.¹⁰⁷ His definition is as follows: "›Kreuzestheologie‹ im strengen Sinn ist dann zu sprechen, wenn Jesus speziell als Gekreuzigter und sein Kreuz nicht nur genannt werden, sondern die Darstellung immer wider theologisch bestimmen."¹⁰⁸ If one accepts this rather strict definition then Mark 10:45, for example, will have to be classified as "the theology of Jesus' death" instead of the "theology of the cross."¹⁰⁹ Kuhn rejects narrative theology, but it is fundamentally important in my view.¹¹⁰ If narrative theology can be understood (as opposed to abstract principles) as "divine revelation" "seen as an event," then that revelation can comprise "the story of Exodus, the subsequent story of the Chosen People, the story of Jesus, his death and resurrection."¹¹¹ In this case, "theological affirmations" about the crucifixion of Jesus can include the Passion narratives in the Gospels.¹¹² Apparently Robert C. Tannehill was

¹⁰⁶ H.-W. Kuhn, *Jesus als Gekreuzigter in der frühchristlicher Verkündigung bis zur Mitte des 2. Jahrhunderts*, ZTK 72 (1975) 1-46, esp. 2.

¹⁰⁷ Kuhn, *Jesus als Gekreuzigter*, 2. and cp. 26.

¹⁰⁸ Kuhn, *Jesus als Gekreuzigter*, 26: "'Theology of the Cross' in the strict sense is only to be used not simply when Jesus in particular as crucified and his cross are mentioned, but when they (i.e., Jesus and his cross) theologically specify the portrayal."

¹⁰⁹ Consequently, Telford (*Theology*, 114, 167, 178, 204) would be incorrect in his appeal to the text to assert that Mark's view of Jesus' death as salvific (10:45) is Mark's theology of the cross.

¹¹⁰ Kuhn, *Jesus als Gekreuzigter*, 45.

¹¹¹ Cf. A. Lucie-Smith, *Narrative Theology and Moral Theology. The Infinite Horizon*, Aldershot, Hampshire/Burlington, VT 2007, 1-2 with ref. to the reflections of Thomas Aquinas (which I will include for their intrinsic interest): *Summa Theologiae Prima pars*, quaestio 1, art. 2 (*Sancti Thomae Aquinatis opera omnia iussu impensaue Leoninis XIII P.M., vol. 4, Rome 1888, 6*) (is [sacred doctrine] a science? [*utrum (sacra doctrina) sit scientia*]), I Q.1 a.2, ad 2 (*Opera omnia*, 4.8) (no, because science is not about particulars and sacred doctrine is concerned with particulars such as the acts of Abraham, Isaac, and Jacob and the like [*Scientia non est singularium. Sed sacra doctrina tractat de singularibus, puta de gestis Abrahæ, Isaac et Iacob, et similibus*]), and I Q.1 a.2, resp. 2 (*Opera omnia*, 4.9) (particulars are treated in sacred doctrine, but not because it is principally concerned with them: they are introduced as examples for life, both for the moral sciences and to establish the authority of the individuals to whom divine revelation came – the revelation on which both sacred Scripture and doctrine are founded [*Ad secundum dicendum quod singularia traduntur in sacra doctrina, non quia de eis principaliter tractetur: sed introducuntur tum in exemplum vitae, sicut in scientiis moralibus; tum etiam ad declarandum auctoritatem virorum per quos ad nos revelatio divina processit, super quam fundatur sacra Scriptura seu doctrina*])). Clearly these reflections are only part of Thomas's views on rationality and theology. Cf. A. Oliva, *Les débuts de l'enseignement de Thomas d'Aquin et sa conception de la Sacra Doctrina* avec l'édition du prologue de son commentaire des *Sentences*, Paris 2006, 282-284.

¹¹² Much has been written on narrative theology (cf. the American Theological Library Association database, www.atla.com, accessed 4 April 2013). On the relationship between *Heilsgeschichte* (apparently first used in 1841 by J. C. K. von Hofmann) and narrative theol-

one of the first scholars to speak of “narrative Christology.”¹¹³ W. R. Telford argues that Mark’s “theology of the cross was expressed in the form of a narrative.”¹¹⁴ A difficult question concerns the inclusion of statements about Jesus’ death in a discussion of the theology of the cross in a particular New Testament document – one cannot simply adopt Kuhn’s definition and bracket out all statements about the death of Jesus in a text such as the Gospel of Mark. The two should be clearly distinguished, however, and one cannot collapse texts that discuss Jesus’ death into a *theologia crucis*. With regard to John, for example, Jörg Frey notes (after quoting Kuhn’s methodological approach above) that there are two fundamental problems for a Johannine theology of the cross: 1. What meaning is given narratively and compositionally to the death of Jesus in the Gospel?; and 2. In what way in John is Jesus’ specific death by crucifixion given a theological meaning?¹¹⁵ In the discussion below I will choose the Gospel of Mark as an illustration of the contribution that study of the Mediterranean world can make to the understanding of Mark’s theology of the cross/crucified one. One of the major points of debate between Hengel and Kuhn was whether there was a direct line between the understanding of crucifixion in the ancient world and the early Christian interpretation of Jesus’ crucifixion.¹¹⁶ The alternative does not have to be so dramatic.

3.2 *Markan Texts*

In the case of Mark, Kuhn, limited by his methodology, can only identify 16:6 as a theological affirmation concerning the crucifixion of Jesus, because in the Easter narrative God affirms Jesus as τὸν ἐσταυρώμενον (the crucified

ogy, cf. D. T. Irvin, *Christian Histories, Christian Traditioning. Rendering Accounts*, Maryknoll, NY 1998, 67. See J. C. K. von Hofmann, *Weissagung und Erfüllung im alten und im neuen Testament. Ein theologischer Versuch*, vol. 1, Nördlingen 1841, 8, 26, 43, etc. U. Schnelle has a short discussion of “Christology as Narrative in Mark.” Cf. idem, *Theology of the New Testament*, Grand Rapids 2009, 415-19. Thus the secrecy theory (Mark 9:9) is a “form of Mark’s theology of the cross” (ibid., 412). Most useful for my work below are E. S. Malbon’s reflections on the topic (Mark’s Jesus. *Characterization as Narrative Christology*, Waco, TX 2009, 1-19).

¹¹³ R. C. Tannehill, *The Gospel of Mark as Narrative Christology*, Semeia 16 (1979) 47-94, esp. 47 and cf. Malbon, *Mark’s Jesus*, 4.

¹¹⁴ Telford, *Theology*, 212. Unfortunately Telford uses the term “theology of the cross” often in his book but never seems to succeed in articulating a clear meaning for the concept (other than an appeal to 10:45). Cf. the index, 273, “cross, theology of.” In ibid., 226, for example, he is more dependent on Paul (1 Cor 1:18-25, 2 Cor 12:9) than on Mark for expressing his understanding of Mark’s *theologia crucis*. For a very accessible summary of Paul’s *theologia crucis*, cf. C. B. Cousar, *A Theology of the Cross. The Death of Jesus in the Pauline Letters*, Minneapolis 1990.

¹¹⁵ Frey, *Die „theologia crucifixi“*, 176.

¹¹⁶ Kuhn, *Die Kreuzesstrafe*, 651. Cp. Hengel, *Crucifixion*, 86-90.

one).¹¹⁷ It is theological, because the perfect tense indicates that the Gospel writer views Jesus as the one who remains crucified for the community of faith (cp. the similar uses in 1 Cor 1:23, 2:2, Gal 3:1).¹¹⁸ Marie-Joseph Lagrange argued that the tense signifies Jesus is always “the crucified” to intercede for us and refers to Paul’s usages and to Heb 7:25 (Christ as intercessor). The aorist is employed for the act of crucifixion itself in the NT (John 19:20, 2 Cor 13:4, Rev 11:8).¹¹⁹ The article and perfect tense (along with the examples in Paul), and the apposition with “the Nazorean,” imply that the word is a title and not just a relative prepositional phrase (as in the NRSV) according to Robert Bratcher and Eugene Nida.¹²⁰ The perfect tense itself is not always enough to show a relationship to a community, however.¹²¹ In addition, the article is probably an example of anaphora, which refers to the prior narrative of the crucifixion of Jesus. Lucian uses it (although with a different verb) in his description of Christians who worship Jesus, “that crucified sophist himself,” and one may well doubt if that is a titular usage.¹²² His purpose was to emphasize that Jesus stayed dead, and his description of Peregrinus’s ascent into heaven (as a vulture) and later appearance while clothed in white was probably a mockery of Jesus’ resurrection.¹²³ Josephus describes Antiochus’s crucified victims around whose necks their strangled children were hung with the perfect tense and article (τῶν ἀνεσταυρωμένων).¹²⁴ In his account of his friends who were crucified outside of Tekoa and then removed from their crosses while still alive, he also uses the same tense.¹²⁵ Artemidorus interprets the dream of one who has been crucified up high to mean honor and expresses himself similarly (article and perfect participle).¹²⁶ It is the narrative context (Jesus’ death, the empty tomb, the message of his resurrection) that renders 16:6 a theological affirmation about Jesus’ cross, and this throws into question a method that rejects all narrative theology. Mark’s audience (in

¹¹⁷ Presumably he assumes that the young man is an angel.

¹¹⁸ Kuhn, *Jesus als Gekreuzigter*, 21.

¹¹⁹ M.-J. Lagrange, *Évangile selon Saint Marc*, Paris 1947, 446.

¹²⁰ R. G. Bratcher and E. A. Nida, *Manuel du traducteur pour l’évangile de Marc*, New York 1963, 512. NRSV: “for Jesus of Nazareth who was crucified.”

¹²¹ A. Yarbro Collins, for example, (*Mark. A Commentary*, Hermeneia, Minneapolis 2007, 796) apparently finds no specific theological significance in the tense.

¹²² Lucian *Peregr.* 13 τὸν δὲ ἀνεσκολοπισμένον ἐκεῖνον σοφιστὴν αὐτὸν προσκυνῶσιν.

¹²³ Lucian *Peregr.* 39-40. Cp. Julian’s insistence that Christians worship a corpse in *Contra Galilaeos* 206A; 194D; 335B (ed. E. Masaracchia; *Testi e Commenti* 9; Rome 1990, 142,7; 138,16; 175,5).

¹²⁴ Josephus *A.J.* 12.256.

¹²⁵ Josephus *Vita* 420 πολλοὺς αἰχμαλώτους ἀνεσταυρωμένους (no article).

¹²⁶ Artemidorus *Onir.* 4.49 διὰ τὸ ὑψηλότατον εἶναι τὸν ἐσταυρωμένον.

Syria or Rome)¹²⁷ would have been aware of the frequent use by the Romans of crucifixion, and belief in a crucified and risen Christ posed challenges to the Christian community and pagans alike. Jörg Frey points out the equivalent phenomenon (i.e., equivalent to the perfect tense) in the Gospel of John where it is indicated by the stigmata on Jesus' risen body (John 20:24-29).¹²⁸

In part the difficulties of proclaiming a risen Lord are reflected in later objections to belief in Jesus' resurrection on the part of certain pagan philosophers.¹²⁹ Paul expresses the challenges posed by proclaiming the cross to both Jews and Hellenes (pagans) in 1 Cor 1:23. Caecilius, quoted above (§ 1.1), objects in the strongest possible terms to the worship of an individual executed "for his crime" by the extreme penalty that he identifies as crucifixion.

My purpose in the summary above on the misery of crucifixion (§ 1.1) is to illustrate some of the reception history of belief in Jesus as the crucified one (τὸν ἐσταυρώμενον). But it also indicates the embarrassing nature of Jesus' crucifixion for the Christian community. Mark 16:6 hints that without the resurrection, the crucifixion of Jesus merely signified the "bitter end" that Apollo's oracle mentions. Paul clearly expresses the consequences (1 Cor 15:17) if Christ has not been raised. Mark's audience (real or implied readers) perceives the "worst death" of Porphyry's oracle in Jesus' words on the cross (Mark 15:34). It is curious that in his survey of the gruesomeness of crucifixion in pagan authors, Kuhn does not at least mention the verse in a footnote.¹³⁰ It belongs in a Markan narrative theology of crucifixion. Jesus' words may be a "secondary interpretation" of Mark 15:37,¹³¹ but they were nevertheless difficult for the Christian community. Celsus mocked Jesus' words on the cross several times.¹³² His cry of dereliction from the cross posed exegetical challenges then as now. The existence of the text in an Aramaic form probably indicates that it is an early tradition, even though one cannot demonstrate that it came from the lips of Jesus.

¹²⁷ People in the east probably would have known of the crucifixions in first century Palestine.

¹²⁸ Frey, *Die „theologia crucifixi“*, 231: "the unending value of the crucified One."

¹²⁹ Cook, 1 Thessalonians, 517-20 and *idem*, *The Interpretation of the New Testament*, 385 s.v. "resurrection." Cp. Paul's problems on the Areopagus (Acts 17:23-34).

¹³⁰ Kuhn, *Die Kreuzesstrafe*, 753-8.

¹³¹ R. Bultmann, *History of the Synoptic Tradition*, New York 1963, 313. Cp. Collins, Mark, 753-5 who thinks the text is a Markan composition that expresses a "sense of abandonment by God" but not despair. What is questionable about both positions is the Aramaic text Mark transmits. It shows some facility with the language – far more than a knowledge of loanwords. Bultmann would have to concede that Mark knew Aramaic fairly well, which is getting close to Papias's views.

¹³² Origen *C. Cels.* 2.36, 7.53. Cf. *chapt. 3 § 6.1.*

And in the ninth hour Jesus cried out in a great voice, “Eloi eloi lema sabachthani”; which is translated as, “My God, my God, why have you forsaken me?”

καὶ τῇ ἐνάτῃ ὥρᾳ ἐβόησεν ὁ Ἰησοῦς φωνῇ μεγάλῃ, Ελωι ελωι λεμα σαβαχθανι; ὃ ἐστιν μεθερμηνευόμενον Ὁ θεός μου ὁ θεός μου, εἰς τί ἐγκατέλιπές με;

אלהי אלהי למה שבקתני¹³³

Augustine himself had to cope with the text, and at no point in his exposition does he attempt to turn Jesus’ “cry of dereliction” into a “song of victory.” It is important to remember that Augustine was not separated by too many years from Constantine’s decision to end (or try to end) crucifixion in the western empire. Consequently, he was fully aware of the horrors of the penalty.¹³⁴ Honoratus asked Augustine for an explanation of the verse. In his letter on *De gratia Novi Testamenti*, Augustine wrote, probably early in 412:

Therefore the man, Christ, who is likewise the God, Christ, by whose most compassionate humanity and in whose form of servant we ought to learn what is to be despised in this life and what is to be hoped for in the other, in that very Passion in which His victorious enemies seemed great, took on the speech of our infirmity, in which “our old man was crucified with him, that the body of sin might be destroyed,” [Rom 6:6] and said: ‘My God, my God, why hast thou forsaken me?’ And this was one of your five propositions. Thus Psalm 21 begins, which was sung so long a time ago, in prophecy of His Passion and the revelation of the grace which He brought to raise up His faithful and set them free.

*proinde homo Christus idemque Deus Christus, cuius misericordissima humanitate atque in cuius forma seruili discere deberemus, quid in hac uita contemnendum et quid in alia sperandum esset, in ipsa passione, in qua sibi eius inimici magni uictoresque uidebantur, suscepit uocem infirmitatis nostrae, qua simul crucifigebatur uetus homo noster, ut euacuaretur corpus peccati, et dixit: Deus, Deus meus, ut quid me dereliquisti? et hoc unum de quinque propositis tuis. sic incipit psalmus uicesimus et primus, qui de passione ipsius et reuelatione gratiae, quam fidelibus faciendis liberandisque adtulit, in prophetia tanto ante cantatus est.*¹³⁵

¹³³ Reconstruction based M. Wilcox’s discussion (Semitisms in the New Testament, ANRW II.25.2 [1984] 978-1029, esp. 1005-1006). With regard to Matthew 27:46, Wilcox (ibid., 1005) notes that Matthew’s word for God (אל) is attested for a Qumran Aramaic text (11Q18 [11QNJ ar] frag. 20, 1 אל). For אלה see 4Q198 Frg. 1,1 (Tob 14:1). שבק is also attested at Qumran (1Q20 [1QapGen ar] XXII,25 and 4Q242 [4QPrNab ar] frags. 1-3,4). The entry for למה in Sokoloff, Dictionary, s.v. refers to Matt 27:46, indicating that Sokoloff thought it was Aramaic (he gives later attestations) but there are earlier ones in Egyptian Aramaic. Cf. B. Porten and J. A. Lund, Aramaic Documents from Egypt. A Key-Word-in-Context Concordance, Winona Lake, IN 2002, 207 s.v. One can find examples in Ahqar (36, 201 = C 1.1 36, 201 in their MS enumeration = Trismegistos 89515).

¹³⁴ Cf. the quote above in § 1.2 and see chapt. 5 § 1.10.

¹³⁵ Aug. Ep. 140.5.14 (CSEL 44, 165,16-166,2 Goldbacher), trans. of Augustine, Letters, Volume 3 (131-164), FC 20, trans. Sr. W. Parsons, Washington, D.C. 1953, 68. On the date, cf. G. Bonner, *Gratia Testamenti Novi*, De in: Augustine through the Ages. An Encyclopedia, ed. A. Fitzgerald and J. C. Cavadini, Grand Rapids, MI 1999, 401-402.

Augustine notes that “it is spoken in the person of Christ, in so far as it refers to the form of the servant, in which he bore our infirmity” (*dicitur enim ex persona Christi, quod ad formam serui adinet, in qua nostra portabatur infirmitas*).¹³⁶ After a reference to Paul’s prayer in 2 Cor 12:9, which also was not heard and in which Paul was also in a way “abandoned” (*derelictus*),¹³⁷ Augustine writes:

Out of the voice, then, of this infirmity of ours, which our Head transferred to Himself, the psalm utters these words: “My God, my God, look upon me, why hast thou forsaken me?” [Ps 21:2 Vulg.] Doubtless, He is forsaken, inasmuch as His prayer was not heard; Jesus transferred this voice to Himself, [the voice namely of his body; that is the voice of his church being recreated from the old humanity into the new],¹³⁸ the voice, no doubt of human weakness, to which the goods of the Old Testament had to be refused, that it might learn to pray and hope for the goods of the New Testament.

*... ex uoce ergo huius infirmitatis nostrae, quam in se transfigurauit caput nostrum, dicitur in hoc psalmo: Deus, Deus meus, respice me; quare me dereliquisti? in eo quippe derelinquitur deprecans, in quo non exauditur. hanc in se uocem transfigurauit Iesus, uocem scilicet corporis sui, hoc est ecclesiae suae a uetere homine in nouum hominem reformandae, uocem scilicet infirmitatis humanae, cui deneganda fuerant bona ueteris testamenti, ut bona noui testamenti optare atque sperare iam disceret.*¹³⁹

He then proceeds to go through the psalm and show how New Testament grace is revealed in it.¹⁴⁰ Augustine uses the last words in Ps 21:2 Vulg. to argue that Jesus’ earlier words are “words of my sins” far from the salvation that is promised by the grace of the New Testament (*longe a salute mea uerba delictorum meorum, id est haec uerba delictorum meorum sunt et longe sunt ab illa salute mea, quam mihi non ueteris sed noui testamenti gratia pollicetur*).¹⁴¹ Christ spoke the words “from the person of his body, which is the church, these he spoke from the person of the infirmity of sinful flesh, which he transformed into that which he received from the virgin, the likeness of sinful flesh” (*haec Christus ex persona sui corporis dicit, quod est ecclesia; haec ex persona dicit infirmitatis carnis peccati quam transfigurauit in eam, quam sumpsit ex uirgine, similitudinem carnis peccati*).¹⁴²

¹³⁶ Aug. Ep. 140.6.15 (166,7-9 Goldbacher), trans. of Parsons, Augustine, 69.

¹³⁷ Aug. Ep. 140.6.15 (166,11-14 Goldbacher).

¹³⁸ Parsons did not translate this section of Augustine’s text.

¹³⁹ Aug. Ep. 140.6.15 (166,14-23 Goldbacher), trans. of Parsons, Augustine, 69.

¹⁴⁰ Aug. Ep. 140.6.15 (166,1-7 Goldbacher).

¹⁴¹ Aug. Ep. 140.6.17 (167,21-4 Goldbacher).

¹⁴² Aug. Ep. 140.6.18 (169,5-6 Goldbacher). Cp. Psal. 21.2.3 (CChr.SL 38, 123,21-4 Dekkers/Fraipont) *Quomodo ergo dicit delictorum meorum, nisi quia pro delictis nostris ipse precatur, et delicta nostra sua delicta fecit, ut iustitiam suam nostram iustitiam faceret?* (Why then did he say “my sins” if he did not pray for ours, he made our sins his, that he might make his justice ours).

In his cry on the cross, “we heard the voice of the church suffering in Christ.”¹⁴³ Christ did not say “my God, you have forsaken me,” but indicated that there was a cause which should be sought for when he said “why have you forsaken me?” (*quid*) – that is “for what reason” (*quare*)?¹⁴⁴ Augustine shows how the different verses of the psalm describe Christ’s passion and then concludes,

See what is accomplished by the fruit of his abandonment, suffering, prayer; what is taught, what is recommended to us, what is made clear. Behold what we read of as prophesied long ago, what we now see as fulfilled: “I will declare thy name to the brethren,” he says, “in the midst of the Church will I praise thee.” [Ps 21:23 Vulg.]

*uide, illius derelictionis, tribulationis, deprecationis fructu quid agatur, quid insinuetur, quid commendetur, quid inlustretur. intueri, quid legamus tanto ante prophetatum, quid iam cernamus impletum. narrabo, inquit, nomen tuum fratribus meis; in medio ecclesiae cantabo te.*¹⁴⁵

The “brothers” are the church, and the Gospel will be preached to the end of the world (Matt 24:14).¹⁴⁶ Ps 21:23 Vulg., consequently, is a prophecy fulfilled by Matt 24:14. Augustine does not attempt to argue that Mark refers to Ps 21:23 Vulg. in Mark 15:34. As sophisticated theologically as Augustine’s exposition is, he also does not attempt to overcome the tone of dereliction in Jesus’ cry on the cross and transform it into something that it is not on any obvious reading of the text (i.e., a “cry of victory”). He clearly is aware of the brutality of Roman crucifixion (cf. his comments above on the prolonged death [*producta morte*] associated with the penalty).¹⁴⁷ Erich Klostermann’s position is not far from Augustine’s. He remarks that 15:34 is an “expression of abandonment” but also a cry in which Jesus “turns to his God.”¹⁴⁸

One may well ask (as many have)¹⁴⁹ if Mark’s readers would have heard the cry from the cross in light of the rest of the psalm. Holly J. Carey argues

¹⁴³ Aug. Ep. 140.6.18 (168,7-10 Goldbacher): *nam sicut audiimus ecclesiae uocem in Christo patientis: Deus, Deus meus, respice me; quare me dereliquisti?*

¹⁴⁴ Aug. Ep. 140.11.28 (178,21-4 Goldbacher): *propterea non ait: Deus meus, dereliquisti me, sed causam communuit requirendam, cum addidit: ut quid dereliquisti me? id est quare.*

¹⁴⁵ Aug. Ep. 140.17.43 (191,17-21 Goldbacher), trans. of Parsons, Augustine, 93-4.

¹⁴⁶ Aug. Ep. 140.17.43 (191,23-192,5). For a somewhat variant exposition, cf. R. Dardano, Christ and the Just Society in the Thought of Augustine, Cambridge et al. 2004, 106.

¹⁴⁷ Aug. Tract. Io. 36.4 in § 1.2.

¹⁴⁸ E. Klostermann, Das Markusevangelium, HNT 3, Tübingen ⁴1950, 166. Cp. the similar comment by G. Rossé, The Cry of Jesus on the Cross. A Biblical and Theological Study, trans. S. W. Arndt, New York/Mahway 1987, 37. Rossé’s study is a fine example of exegesis that considers the meaning of the cry of abandonment for contemporary theology. See his superb overview of the history of interpretation of the text (ibid., 73-100).

¹⁴⁹ The bibliography comprising scholars who read the text this way is large. Cf. the survey (of many varied positions) in H. J. Carey, Jesus’ Cry from the Cross. Towards a First-Century Understanding of the Intertextual Relationship between Psalm 22 and the Narrative of Mark’s Gospel, Library of New Testament Studies 398, London/New York 2009, 13-23.

that the readers of Mark would have heard Jesus' cry from the perspective of the entire psalm (a "contextual" vs. an "atomistic" reading).¹⁵⁰ Her arguments include the following: incipits in the Qumran and rabbinic literature imply the rest of a text; occasionally Mark indicates that the larger context of his citations is important for understanding his Gospel; other characteristics in the Gospel point toward a contextual interpretation such as Jesus as "Righteous Sufferer"; signals to the reader that Jesus would rise from the dead; and prior allusions to Ps 22.¹⁵¹ Geert van Oyen has posed the important question: how can one be sure Mark's readers were accustomed to the incipits of Qumran and rabbinic literature and that Mark was following this particular method in 15:34?¹⁵²

Vernon Robbins has made a forceful case in a seminal essay that Mark has already referred to the psalm, but in an order that creates a "reversed contextualization" of the text of the psalm: Mark 15:24 (Ps 22:19), Mark 15:29 (Ps 22:7-9, esp. 8b), and Mark 15:34 (Ps 22:2a). He argues that interpreters want to turn 15:34 into a "positive statement" by imposing the rhetoric of Ps 22 (confidence, trust, and hope) on Mark's "rhetoric of abandonment." There is no longer any hope for rescue, and the entire sequence of the use of Ps 22 in Mark inverts the rhetoric of the psalm.¹⁵³ He contrasts the reversed contextualization of Psalm 22 in Mark with the final words of Ps 37:22-23 LXX which begins with a plea against abandonment but ends

J. L. Mays, *Prayer and Christology: Psalm 22 as Perspective in the Passion*, *ThTo* 42 (1985) 322-31, esp. 322 ("Citing the first words of a text was, in the tradition of the time, a way of identifying an entire passage" [unfortunately Mays does not include the evidence to which he refers]) and F. J. Matera, *The Kingship of Jesus. Composition and Theology in Mark 15*, SBLDS 66, Chico, CA 1982, 127-35 (e.g., 133: "The great cry of the Crucified One brings to mind the entire psalm") are two readers skilled in theological exegesis (which in my view assumes the existence of the God of Scripture) who believe the entire psalm provides the context for interpreting Jesus' cry.

¹⁵⁰ Carey, *Jesus' Cry*, 3, 69, 71, etc.

¹⁵¹ Carey, *Jesus' Cry*, 46-8 (resurrection in Mark), 70-93 (contextual citation in Mark), 109 (Song of Miriam: 4Q365 6a col. ii 1-7 [an addition to Exod 15] and 6a col. ii 8-14 [Exod 15:22-26], 4Q174 frags. 1-2 21 col. i 18-19 [Ps 2:1-2 and interpretation]), 133-7 (Righteous Sufferer), 155-7 (summary). I see little evidence that these texts from Qumran justify an interpreter in assuming people in the community regularly used incipits to signal an entire text. m. Tamid 7:4 is a good example, however, of such a use of the incipits of Ps 24 etc., but it is a liturgical text from a later era. She does emphasize (*ibid.* 167) that suffering and vindication are both present in the verse.

¹⁵² I find this in a fascinating online article that includes a survey of "real readers." Cf. G. van Oyen, *Mark 15:34 and the Sitz im Leben of the Real Reader*, http://dial.academielouvain.be/vital/access/services/Download/boreal:95977/DOC_02 (last accessed 16 April 2013).

¹⁵³ V. K. Robbins, *The Reversed Contextualization*, 273-9. Cf. *chapt. 3 § 2.5* for Robbins' reading of the text using Dio Chrysostom *Or.* 4.67-9.

... with reference to God as “Lord of my salvation.” The Markan account of the crucifixion, in contrast, presents a Jesus who no longer holds any hope for rescue from the agony of death. This is the reality of human suffering Jesus enacts on the cross in Mark.¹⁵⁴

Those who try to turn Jesus cry into a “positive statement” are imposing the rhetoric of Ps 22 on the “rhetoric of Markan discourse.”¹⁵⁵ He precedes the discussion of Ps 22 and ends his investigation with a comparison of the entire account with that of the Sacian feast in Dio Chrysostom that I have discussed above.¹⁵⁶ Robbins willingly places the centurion’s assertion in 15:39 in a cross-cultural context comprising Jewish culture, Christian appropriation of Jewish culture, and Mediterranean culture – so that he could be calling Jesus “son of God/Zeus.”¹⁵⁷ Dio’s (or rather Diogenes’) view of kingship might conceivably be informing the centurion’s understanding of Jesus’ own kingship.¹⁵⁸ Horace and others were attracted to the legend of the king of Athens, Codrus, who willingly sacrificed himself (by putting on the clothes of a beggar and being unknowingly killed by the Peloponnesians) for the deliverance of his city from the Spartans: *Codrus pro patria non timidus mori* (Codrus is not afraid to die for his country).¹⁵⁹ Clement of Rome refers to a similar tradition:

¹⁵⁴ Robbins, *The Reversed Contextualization*, 278.

¹⁵⁵ Robbins, *The Reversed Contextualization*, 277.

¹⁵⁶ Chapt. 3 § 2.5. For perceptive comments on the “dialogical” nature of the of the portrayal of Christ’s passion in Mark, cf. D. B. Gowler, *Introduction: The End of the Beginning*, in Robbins, *Sea Voyages and the Beyond*, 1-45, esp. 31. He particularly refers to the conception of Menippean satire and the “carnavalesque” and their influence on ancient Christian literature in M. M. Bakhtin, *Problems of Dostoevsky’s Poetics*, *Theory and History of Literature* 8, ed. and trans. C. Emerson, Minneapolis 1984, 113, 121, 124-5 (“the primary carnivalesque act is the *mock crowning and subsequent decrowning of the carnival king*”), 135 (“Christian narrative literature [independently of the influence of carnivalized menippea] was also subjected to direct carnivalization. It is enough to recall the scene of crowning and decrowning the ‘King of the Jews’ in the canonical Gospels”) and historical material in Brown, *Death of the Messiah* 871-77 (historical incidents of mockery such as Karabas in Philo Flacc. 36, games of mockery [*basilinda*], and theatrical mimes, and carnival festivals such as the Sacian feast).

¹⁵⁷ Robbins, *The Reversed Contextualization*, 272-3, 279-81.

¹⁵⁸ On Diogenes’ view of kingship (as portrayed by Dio), see chapt. 3 § 2.5.

¹⁵⁹ Hor. *Carm.* 3.19.2. On Horace and Codrus, Cf. R. G. M. Nisbet, *A wine-jar for Messalla. Carmina* 3.21, in: *Traditions and Contexts in the Poetry of Horace*, ed. T. Woodman and D. Feeney, Cambridge 2002, 80-92, esp. 91, 225 (notes). Robbins, *The Reversed Contextualization*, 273 refers to *Carm.* 3.2.13 *dulce et decorum est pro patria mori* (“sweet and fitting it is to die for one’s fatherland”), 1 Clem 55:1-5, and to M. Hengel, *The Atonement*, 13, 14, 82. Cp. *Lycurgus In Leocratem* 84-9 ὁρά γ’ ὁμοίως ἐφίλουν τὴν πατρίδα Λεωκράτει οἱ τότε βασιλεύοντες, οἳ γε προηροῦντο τοὺς πολεμίους ἐξαπατῶντες ἀποθυῆσκειν ὑπὲρ αὐτῆς καὶ τὴν ἰδίαν ψυχὴν ἀντὶ τῆς κοινῆς σωτηρίας ἀντικαταλλάττεσθαι; (Did the kings of that time love their country as Leocrates – they who chose, by deceiving their enemies, to die for their country and to give their life in ex-

Many kings and rulers during a time of plague having received oracular responses have delivered themselves up to death so that they might save their citizens through their own blood.

πολλοὶ βασιλεῖς καὶ ἡγούμενοι λοιμικοῦ τινὸς ἐνστάντος καιροῦ χρησιμοδοτηθέντες παρέδωκαν ἑαυτοὺς εἰς θάνατον, ἵνα ῥύσωνται διὰ τοῦ ἑαυτῶν αἵματος τοὺς πολίτας.¹⁶⁰

Although it is leading this investigation too far afield, Philoctetes was the wounded savior of the Greeks at Troy according to an old tradition that was much modified. Glenn Bowersock has brilliantly analyzed the relation of the Philoctetes legend to that of the Gospels.¹⁶¹ Peregrinus Proteus, before his self-immolation at the Olympic games, mentions his desire to imitate the death of Heracles and be “commingled with the aether” (ἀναμιχθῆναι τῷ αἰθέρι). He then continues:

I want, he said, to help all people by showing them the way by which one ought to despise death. It is necessary, therefore, that all people become Philocteteses.

“ὥφελῆσαι,” ἔφη, “βούλομαι τοὺς ἀνθρώπους δείξας αὐτοῖς ὅν χρὴ τρόπον θανάτου καταφρονεῖν· πάντας οὖν δεῖ μοι τοὺς ἀνθρώπους Φιλοκτῆτας γενέσθαι.”¹⁶²

Bowersock complicates matters still further by formulating this conclusion about Jesus’ cry on the cross:

So direct and uncontrolled an expression of grief was, as we have come to see, utterly at variance with standards of the Graeco-Roman society in which and by which Jesus was crucified. We should now not be surprised to find that it was this all-too-human response that sufficed to convince Lucian’s contemporary Celsus of the weakness and even effeminacy of Jesus Christ.¹⁶³

change for the salvation/safety of all?), Hellenikos apud FGrHist vol. IA, 4 F125 (= Schol. Plat. Symp. 208D) ὃς καὶ ὑπὲρ τῆς πατρίδος ἀπέθανε (who [Codrus] died for his country ...), Diogenianus Paroemiae Centuria 4.84 (Codrus), and Vell. 1.2.1-2 (Codrus).

¹⁶⁰ 1 Clem 55:2.

¹⁶¹ Bowersock, Fiction, 55-76. Sophocles, Euripides, and Aeschylus all wrote plays on Philoctetes, but only Sophocles’ survives. Cicero and other Romans did not approve of Philoctetes’ wailings (due to a snake bite that would not heal) on the island of Lemnos (cf., e.g., Fin. 2.94-5 and Bowersock, *ibid.*, 65). Cicero complains: *turpe esse, viri non esse debilitari dolore, frangi, succumbere* (“it is disgraceful, it is unmanly to be weakened by grief, to be brokn by it, or to succumb to it” [trans. Bowersock]).

¹⁶² Lucian Peregr. 33. Cf. Bowersock, Fiction, 71-2.

¹⁶³ Bowersock, Fiction, 74. Celsus (Origen Cels. 2.24 [102,6-8 Marc.]), commenting on the Gethsemane episode in the persona of his Jew asks, “Why does he implore loudly, and wail, and pray to escape the fear of death saying something like, ‘Father if this cup could pass by’ (Mt 26:39)?” (τί οὖν ποτινᾶται καὶ ὀδύρεται καὶ τὸν τοῦ ὀλέθρου φόβον εὐχεται παραδραμεῖν λέγων ὃδέ πως· ‘ὦ πάτερ, εἴθε δύναιτο τὸ ποτήριον τοῦτο παρελθεῖν’). Cf. Cook, New Testament, 49. Celsus did know of Jesus’ death cry, the earthquake, and the darkness, however. Cf. chap. 3 § 6.1 (Cels. 2.55).

Several scholars have also attempted to place the centurion's assertion in context by appealing to the expressions *divi filius* (son of the divinized one) and θεοῦ υἱός (son of god) in Latin and Greek imperial inscriptions respectively.¹⁶⁴ One should not lose sight of the fact, however, that in the Markan context the centurion's assertion is probably as miraculous as the torn curtain of the temple (15:38) which immediately precedes it.¹⁶⁵ Equally important is the use of the expression in the Markan Gospel (the inner texture or text internal usage).¹⁶⁶ Frank J. Matera surveys scholarship on the meaning of the title in 15:39 and concludes that it expresses "royal messianism."¹⁶⁷ That does not detract from attempts by those such as Robbins and others to place the confession/assertion in a wider Mediterranean context. But Bowersock's point is crucial: there is no direct line between Greco-Roman views of acceptable behavior (e.g., Jesus' cry from the cross) and admiration of Jesus (as a "son of Zeus" or anything else) by a Roman observer such as a battle hardened centurion. Well meaning attempts to establish the historicity of 15:39 by some scholars (e.g., using the language of the imperial cult's inscriptions) are probably not successful. Robbins combines everything in this perceptive comment, "According to the Markan version, the kingdom of God occurs in and through the sequence of the ironic death of Jesus as 'King of the Jews' followed by the empty tomb which points to his appearance in the future."¹⁶⁸

From a narrative perspective, God does not abandon Jesus as the reader knows that he will be raised from the dead. Elisabeth Struthers Malbon uses the concept of the implied reader/audience in her analysis: "The Markan Jesus' experience of abandonment is not to be denied or lessened; yet the implied audience also knows that God is present and acting ... " Although Jesus "certainly feels abandoned," "... the implied audience also knows that the words of the centurion at his end echo the words of the narrator at the beginning – 'Jesus Christ, Son of God' (1:1)."¹⁶⁹ Raymond Brown notes that "my

¹⁶⁴ T. H. Kim, *The Anarthrous υἱός θεοῦ in Mark 15,39 and the Roman Imperial Cult*, Bib 9 (1998) 221-41 and R. L. Mowery, *Son of God in Roman Imperial Titles and Matthew*, Bib 83 (2002) 100-10. For one inscription from the Greek world that calls Nero "son of god," cf. Cook, *Roman Attitudes*, 29-37 (IG VII, 2713).

¹⁶⁵ Robbins notes that according to Josephus (Bell. 5.212-14) the temple curtain portrayed "a panorama of the entire heavens" (The Reversed Contextualization, 279): κατεγέγραπτο δ' ὁ ὅππλος ἅπασαν τὴν οὐράνιον θεωρίαν πλὴν ζῳδίων (the curtain was portrayed with the entire heavenly panorama except for the Zodiacal signs).

¹⁶⁶ Matera, *Kingship* 140 lists these passages: 1:1 [if one accepts x, B, D, L, and W], 11; 3:11; 5:7; 9:7, 13:32, 14:62, 15:39 with "the placement" of 1:11, 9:7 and 15:39 having particular significance for Mark.

¹⁶⁷ Matera, *Kingship*, 140, and cf. the entire discussion in 140-5.

¹⁶⁸ Robbins, *The Reversed Contextualization*, 280.

¹⁶⁹ Cf. Struthers Malbon, *Mark's Jesus*, 188-89 on the continuing presence of God during Jesus' death despite Jesus' own perspective ("the knowledge and emotional experience of the Markan Jesus"). She notes that 15:33 (ibid., 188) signifies God's action. Cp. Carey, *Jesus'*

God” implies trust and that “Mark knew that the passion culminated in victory even if it plumbed the depths of lonely suffering ...”¹⁷⁰ This is similar to Eusebius’s solution. Using Aquila’s translation of Ps 21:2 LXX (ἰσχυρέ μου, ἰσχυρέ μου, ἵνα τί ἐγκατέλιπές με [my strength, my strength, why have you abandoned me]), he gives the passage a Pauline flavor:

And then since his Strength left him, for this reason he was [crucified], as the apostle says [2 Cor 13:4], “and he was crucified in weakness, but he lives by the power of God,” so that he would not have been crucified if his Strength had not abandoned him.

καὶ τάχα ἐπεὶ ἐγκατέλιπεν αὐτὸν ὁ ἰσχυρὸς αὐτοῦ, τούτου χάριν <ἐσταυρώθη>, ὥς φησιν ὁ ἀπόστολος «καὶ γὰρ ἐσταυρώθη ἐξ ἀσθενείας, καὶ ζῆν ἐκ δυνάμεως θεοῦ», ὥς μὴ σταυρωθεὶς [εἴη] ἄν, εἰ μὴ ὁ ἰσχυρὸς αὐτοῦ καταλελοίπει αὐτόν.¹⁷¹

Jesus’ cry of dereliction and the Greco-Roman material on the misery of crucifixion illuminate one another to a certain extent. Jerome himself is well aware of this in a comment he makes after quoting Matt 27:46 and denying that the Psalm was uttered “from the persona” (*ex persona*) of David or Esther and Mordecai. Rather it is a testimony of the savior according to the understanding of the evangelists (*euangelistae testimonia ex eo sumpta super saluatore intellegant*):

Do not be amazed at the humility of the words and of the laments of abandonment when, knowing the nature of a servant [or “slave”], you attend to the scandal of the cross.

*nec mireris uerborum humilitatem et querimonias derelicti, cum formam serui sciens scandalum crucis uideas.*¹⁷²

Attempting to insert the entire psalm into Mark 15:34 fundamentally ignores the brutality of Roman crucifixion.

4 Conclusion

Clearly results from Roman procedure are relevant for the interpretation of the New Testament. Although one cannot claim that there was one form of crucifixion used by Rome during the Republic and imperium, it is not difficult to find many threads that appear in many of the accounts, such as flogging. Hypotheses about the medical causes of death from crucifixion are too tenuous to formulate reliable conclusions. *Haritsuke* and tree-hanging in that re-

Cry, 163, who, however, wants to deny that Jesus was “abandoned” (164), which is against the clear sense of the text and which was a position Augustine refused to adopt.

¹⁷⁰ Brown, *The Death of the Messiah*, 2.1049-50.

¹⁷¹ Eus. D.E. 10.8.31 (GCS Eusebius Werke VI, 476,21-9 Heikel).

¹⁷² Hier. Matt. 4 line 1477-9 (CChr.SL 77, 274 Hurst/Adrien), trans. from Rossé, *The Cry of Jesus*, 76.

gard are unhelpful, but those two penalties that were used in modern history illustrate the brutality of penal suspension. Research on crucifixion in the Mediterranean world provides an important foundation for New Testament exegesis and the theology of the cross of Jesus Christ.

Conclusion

Crucifixion in the Mediterranean World

Research on crucifixion in the Mediterranean world has value in its own right. The linguistic results discussed in the introduction and developed throughout the book are clear. There are no uses of *σταυρόω* or *ἀνασταυρόω* that refer to explicit impalements of living (or dead) bodies. By “explicit” I mean texts that have additional semantic clues that indicate impalement. Authors throughout antiquity, however, could use *ἀνασταυρόω* to refer to heads that were suspended and probably impaled on poles. Josephus (A.J. 6.374) describes the headless bodies of Saul and his sons fixed to the walls of Beth-Shan using the verb, so it can refer to post-mortem suspension of a human body.¹ In contrast, there are many uses of each verb (and the noun *σταυρός*) that in context preclude impalement, and those are discussed above. An individual who speaks while suspended, for example, has obviously not been impaled, because that form of execution produces immediate death.² I have also shown that *σταυρός* can refer to either a vertical pole, the cruciform shape, or by synecdoche the *patibulum* (horizontal beam). *Crux* (vertical beam or cruciform structure) is rarely used for anything but penal suspension — crucifixion, in other words. Statius, for example, uses it in one of the rare non-penal contexts, but he probably adopts the word to refer to a cruciform structure.³ There are no uses of *crux* that explicitly refer to an impalement, but there are many examples that include contextual clues that indicate crucifixion (such as a detail about what an individual such as Gavius of Consa could see from his cross).⁴ *Stipes* (vertical beam) in two texts of Seneca refers to Roman impalements. In one narrative he distinguishes *stipes* from the *crux*, but in another text he classifies a *stipes* as a type of *crux*. In still another text, however, he uses *stipes* for the vertical beam on which individuals were crucified (and not impaled).⁵ There are only two texts in Latin literature

¹ Cf. chapt. 3 § 2.4.

² Cf. intro. § 1.

³ See chapt. 1 § 2.11. Sextus Propertius is, to my knowledge, the one exception (chapt. 1 § 1.11). He uses the word (*arboreasque cruces* [cross trees]) to describe a torture of Sinis. *Crux* in Plin. Nat. 14.12 (chapt. 1 § 2.6) is a metaphorical reference to the penalty.

⁴ Cf. chapt. 1 § 1.6.

⁵ See intro. § 3.4.

(those of Seneca) that explicitly refer to impalement, and this warrants the conclusion that it was extremely rare. *Crux* is never used in a syntactical construction (in distinction to *stipes*) to describe a stake driven lengthwise through a person (*adacta per medium hominem*). Numerous texts combine a mention of nails with *crux* or *crucifigere*, and this shows that they naturally belonged together in the Roman concept of crucifixion. Individuals only carry *patibula* before crucifixion in Latin texts, never a *crux*. The conclusion to be drawn from that fact is that in the NT, Jesus carried a *patibulum* and not the cruciform structure.⁶ With these linguistic results, one can with a high degree of confidence assert that when a text written in the Roman era (Second Punic War to Constantine) uses one of the words listed above to describe a penal suspension (with no other indication of a subsequent method of execution such as drowning) that the reference is to a crucifixion.⁷ The burden of proof is on a scholar to show that a use of one of the words refers to an impalement. Hanging was not used in either the Republic or the imperium as a capital penalty, and crucifixion is the only reasonable interpretation of the texts that use these terms to describe Roman penalties. Greek writers who describe penal suspensions during that period by other cultures probably also describe crucifixions, since impalement was so rare as a Roman penalty. During that time only Plutarch (σκόλοπι πῆξεις; [will you impale him on a stake]) and Cassius Dio (ἀνασκολοπισθῆναι ... πασσάλοις διαπύροις ἀναπαρῆναι [... to be impaled ... to be pierced by red-hot stakes]) describe explicit impalements, and only one of those authors refers to an actual execution, which was envisioned by the Roman governor of Briton (the impalements by Boudicca). Neither text uses σταυρός (*stauros*) or the associated verbs.⁸ When used to describe Roman punishments, it has been shown that ἀνασκολοπίζω in authors such as Philo, Chariton, Lucian, and Celsus refers to crucifixion.⁹

Based on the methodology and linguistic results developed in the introduction and the rest of the work, it seems apparent that writing a history of crucifixion may not be possible.¹⁰ Near Eastern texts and images indicate that impalement was practiced by cultures such as that of the Persians. Herodotus presumably was aware of this and probably used ἀνασκολοπίζω (and not ἀνασταυρόω) to refer sometimes to that penalty. He apparently was aware

⁶ Intro. § 3.1-3.

⁷ Ps. Plutarch (chapt. 3 § 2.7) combines crucifixion with drowning, for example.

⁸ Cf. intro. § 2.1.

⁹ Intro. § 2.1.

¹⁰ This is in contrast to the conclusion reached by J. Schneider, σταυρός, σταυρόω, ἀνασταυρόω, TDNT VII, 572–84, esp. 573 who who believes the Persians “invented or first used this mode of execution,” based on Herodotus 1.128, 3.132 and 159, and Thucydides 1.110.3. He believes Alexander, “the Diadochi princes,” and the Carthaginians also adopted the practice.

of another form of penalty used by the Persians, however, one that is closer to Roman crucifixion (the case of Sandoces in which he used ἀνασταυρόω).¹¹ Whether the Carthaginians practiced impalement or crucifixion historically is difficult to say, but the Roman and Greek authors used *crux*, *crucifigere* and σταυρός (*stauros*) and associated verbs to describe Carthaginian practice (often with hints that it was not impalement), whether they were correct or not. Authors of the Roman era attribute the use of crucifixion to Germanic tribes also.¹² Archaeological remains and some texts show that the ancient Greeks practiced some form of exposition in which individuals were nailed to boards or similar structures.¹³ It is also clear that the Greeks exposed individuals on a beam in various poses (standing or seated), and there are numerous depictions of the penalty on Attic vases.¹⁴ Transfixion was a form of exposition, and Halm-Tisserant argues that Roman crucifixion was a transformation of that penalty (transfixion on a cross).¹⁵ Greek rulers such as Antiochus IV used crucifixion according to Josephus.¹⁶ Jewish authorities practiced crucifixion in at least one instance.¹⁷ Beginning with the Second Punic War, it becomes clear that the Romans developed a form of crucifixion that remained in place until the reign of Constantine when it was replaced by the *furca* (fork), a form of execution that resulted in a quick death.¹⁸

The research illuminates some of the darker undercurrents of the Republic and the imperium, which are sometimes overlooked. Investigations of crucifixion in the Mediterranean world are foundational for the discipline of New Testament theology – particularly the theology (or theologies) of the cross. In the Greco-Roman texts that mention crucifixion, there are many similarities with the Gospel narratives of the crucifixion of Jesus, although the Gospel accounts are the most extensive of any that have survived antiquity. The images of torture (the Arieti fresco), crucifixion (e.g., the Puteoli and Palatine graffiti and the Pereire gem), and execution by *furca* (the Vienna Genesis), the nail in the crucified victim's calcaneum, and the photographs of Sokichi also tell a story. The visual evidence, the literary and historical texts, and the inscriptions provide the reader with essential resources for understanding the scandal of the cross (Gal 5:11).

¹¹ Chapt. 3 § 1.2.

¹² Cf., e.g., chapt. 1 § 2.18.

¹³ Intro. § 2.3.

¹⁴ Intro. § 2.2 (the work of Halm-Tisserant, *Realités*, is crucially important).

¹⁵ For transfixion, cf. the finds at Phalerum and Delos, Herodotus 7.33, and Lucian Prom.

2. Halm-Tisserant, *Realités*, 168-9, 188 (a discussion of the Palatine graffito [figure 10]).

¹⁶ Chapt. 3 § 2.4.

¹⁷ Chapt. 3 § 2.4 (Alexander Jannaeus) and chapt. 4 § 5. The Temple Scroll (chapt. 3 § 2.1.2) may advocate crucifixion for the crime of treason, but it is unclear if it was ever used and by whom.

¹⁸ Chapt. 2 passim, chapt. 3 § 10.4, chapt. 5 § 1.10, chapt. 6 § 1.

Addendum

Textual and Archaeological Reflections

1 Textual Material

1.1 C. Clodius Licinus

Stephen P. Oakley in the recently published *Fragments of the Roman Historians* edited an improved text of Clodius Licinus's reference to crucifixions that avoids the "polyptoton" of the version I included in the first edition. That version was based on the Teubner edition of Nonius by Wallace M. Lindsay.¹ The new work (FRHist) comprises three volumes (introduction to the historians, texts, and commentary) and has quickly become indispensable in the field.²

Patibulum [transverse/horizontal beam] is neuter in gender. Licinus in book 21 of his Roman Affairs uses it in the masculine: they are bound to *patibuli* [horizontal beams] and paraded around, and then fixed to the cross.

*patibulum genere neutro. Masculino Licinus rerum Romanarum libro xxi: ³ad patibulos deligantur et circumferuntur, cruci defiguntur.*⁴

Although Oakley uses "gibbet" (a very general term) to translate *patibulum/patibuli* above, Gatti's work in the ThLL and my own semantic investigations confirm that "horizontal beam" is the most probable interpretation of the word.⁵ Already Carel Gabriel Cobet, in his fundamental article of 1859, noted that a "*patibulum* was the transverse beam of wood, on which condemned in-

¹ Cf. p. 22 above.

² T. J. Cornell, general ed., *The Fragments of the Roman Historians*. Vol. I. Introduction, Vol. II. Texts and Translations, Vol. III. Commentary, Oxford 2013, 1.482–3 (introductory comments on Clodius Licinus), 2.924–7 (testimonia and fragments), 3.560–3 (commentary and discussion of the polyptoton [*deligata ad patibulos deligantur* ...]). All three sections on C. Clodius Licinus are by S. P. Oakley, although the entire editorial committee reviewed the material. I thank Professor Oakley for his comments on this section.

³ MS L and G of Nonius have *deligata* here, which Lipsius economically deleted. Cf. Oakley, *Fragments*, 2.926 and 3.562. Oakley retains the *circumferuntur* of the MSS, which Lipsius amended to *circumferunt*.

⁴ C. Clodius Licinus frag. 2, text and trans. (slightly revised) from Oakley, *Fragments*, 2.926–7.

⁵ Cf. pp. 16–34 above. Oakley (3.562) does refer to Gatti's article.

dividuals with outstretched hands were nailed to a cross.”⁶ Oakley writes that “Cobet demonstrated that the Christian image of Christ carrying a cross (rather than a gibbet) rests on a misunderstanding of the Greek of the Gospels.”⁷ Gatti has sufficiently established that the *patibulum* was horizontal and not to be confused with the *furca* (fork) as Isidore did long after crucifixion had been replaced by that form of Byzantine execution.⁸ The setting of Licinus’s text in a work of Roman history is important. Oakley notes the hypothesis of Ludwig Holzapfel that the crucifixions took place in the “Sicilian Slave War of 133,” but remarks that this is far from certain.⁹ What is important is that Clodius Licinus refers to the historical execution of some individuals by crosses with the horizontal beam. The identity of the victims is unknown, because of the obscure historical setting of the event. Licinus’s text should, nevertheless, be classified as an addition to the second chapter (Roman Crucifixions).

The only fragment of Licinus that is identifiable historically is one that mentions an attempted arson by Quintus Pleminius (194 B.C.E.).¹⁰ John Briscoe writes that Pleminius “was put in charge of Locri Epizephyrii” by Scipio Africanus and that “he committed atrocities against the citizens and plundered the temple of Persephone.” He also “tortured and executed” two Roman tribunes after nearly being killed by some of his own soldiers.¹¹ Oakley regards the fragment as historically improbable, since it is more likely that Pleminius was executed shortly after his crimes against Locri in 204 B.C.E. than that he

⁶ Cobet, *Annotationes*, 277: *Patibulum est lignum illud transversum, in quo damnati dispensis manibus affigebantur cruci.*

⁷ Oakley, *Fragments*, 3.562.

⁸ Cf. 17, 28–32, and 42–3 above.

⁹ Oakley, *Fragments*, 3.561 (see pp. 164–6 on the First Sicilian Slave War). Cf. L. Holzapfel, *L’opera storica di Clodio Licino*, RSA 1.2 (1895) 61–7, esp. 63. Holzapfel (63) finds a cj. of Martin Hertz “seductive”: [*servi capitis condemnati ad patibulum*] *deligantur et circumferuntur, [tum] cruci defiguntur.* Hertz, however, only regarded “*deligat ad patibulos*” as the fragment of Licinus, and the rest as explanatory material.

¹⁰ Clodius Licinus frag. 1 = Liv. 29.22.10 (an apparent later “addition to the *codex Puteaneus* [Paris Lat. 5730, V C.E.] of Livy”). Cf. S. P. Oakley, *Livy and Clodius Licinus* CQ 42 (1992) 547–51 (the passage is probably a commentary or scholion that was added to the MS tradition of Livy) and Oakley, *Fragments*, 2.924–5 and 3.560–1 (on the textual addition to Livy). In Liv. 29.22.7–9 Pleminius dies in Rome before his trial. Liv. 34.44.6–8 discusses the arson, which was an attempted jail break by Pleminius, and his subsequent execution. In 204 B.C.E. he “was put on trial for his sacrilegious behavior at Locri, a well-known scandal in the Second Punic War” (Oakley 3.560). On that trial, see also Liv. 31.12.2. There are clearly two version of his death (death before his trial, or execution in Rome after the arson and escape attempt). See the full treatment of I. K. Köster, *How to Kill a Roman Villain: The Deaths of Quintus Pleminius*, CJ 109 (2014) 309–32 (on the accounts of Livy, Diod. Sic. 27.4.1.6–7 [execution soon after his crimes], and Val. Max. 1.1.20–1 [death in prison]).

¹¹ J. Briscoe, Pleminius (RE 2), Quintus, ⁴OCD, 1161.

languished in prison for ten years.¹² In any case, it is curious that the same author mentions crucifixions who describes an event connected to the Second Punic War, when the first historical narratives of crucifixion begin to emerge in Roman sources.

1.2 The Punishment of the Fugitive Slaves in Sextus Pompeius's Army

The *Res gestae* of Augustus specifies the fate of the escaped slaves who served in the army of Sextus Pompeius.¹³ The text clearly identifies the slaves as pirates and rebels in accord with the Augustan interpretation of the events:

I pacified the sea from pirates/brigands. In the course of that war I captured about thirty thousand slaves who had escaped from their masters and taken up arms against the Republic, and I returned them to their masters so that they could be punished.

*mare pacavi a praedonib[us]. eo bello servorum*¹⁴ *qui fugerunt a dominis suis et arma contra rem publicam ceperant triginta fere millia capta dominis ad supplicium sumendum tradidi.*¹⁵

The Greek paraphrase has:

I pacified the sea that was pirate infested by fugitive slaves – of whom about thirty thousand I handed over to their owners for punishment.

θάλασσα[ν] πειρατευομένην ὑπὸ ἀποστατῶν δοῦλων [εἰρήν]ευσά ἐξ ὧν τρεῖς ποὺ μυριάδας τοῖς δε[σπόται]ς εἰς κόλασιν παρέδωκα.

Whether the slaves were all fugitives or not is immaterial to the judgement that Augustus made about the perception of the Civil War that he desired to implant in the Roman public: it was a slave war led by a pirate general.

The implication is that the captive slaves could be treated as brigands or pirates and summarily executed if no master was found.¹⁶ The jurist Pomponius (II C.E.), for example, distinguishes the enemies of a declared war from pirates and brigands:

“Enemies” are those who have publicly declared war on us or on whom we have publicly declared war; others are “brigands” or “pirates.”

¹² Oakley, *Fragments*, 3.561.

¹³ This material is taken from my article: Augustus, R. GEST. DIV. AUG. 25,1: TRIGINTA FERE MILLIA CAPTA DOMINIS AD SUPPLICIUM SUMENDUM TRADIDI, ZPE 201 (2017) 38–41 and supplements 178–9 above.

¹⁴ J. Fugmann (*Mare a praedonibus pacavi* (R.G. 25,1). Zum Gedanken der *aemulatio* in den *Res gestae* des Augustus, Hist. 40 [1991] 307–17, esp. 310) notes that the hyperbaton (*servorum*) creates the impression of a servile war.

¹⁵ R. gest. div. Aug. 25.1, text from J. Scheid, *Res gestae divi Augusti*, CUFr 386, Paris 2007, 19 (Latin text and Greek paraphrase). Clearly secretaries were responsible for the precise details of the text (ibid., xxvi–xxviii).

¹⁶ On the crucifixion of robbers and pirates, cf. Hengel, *Crucifixion*, 46–50 and the index below s.v. “brigandage,” and “piracy.”

*"Hostes" hi sunt, qui nobis aut quibus nos publice bellum decrevimus: ceteri "latrones" aut "praedones" sunt.*¹⁷

Ulpian makes the same distinction:

"Enemies" are those against whom the Roman people has publicly declared war or who have themselves declared war against the Roman people; others are called "brigands" or "pirates."

*"Hostes" sunt, quibus bellum publice populus Romanus decrevit vel ipsi populo Romano: ceteri "latrunculi" vel "praedones" appellantur.*¹⁸

Labelling the slaves as "pirates" sealed their fate in the hands of Octavian, when their masters could not be found.

The slaves who were returned to their masters would have been subjected to what are often called domestic tribunals (the *tribunal domesticum*) in modern scholarship.¹⁹ It is probable that most of the escaped slaves would have been crucified. The tradition in Orosius quoted above is dependent on information that appears in the *Res gestae*, and one can fairly assume that he had a source for the detail about the crucifixion of 6000 individuals, since he had a source for his number of slaves (30,000) returned to their masters.²⁰ The most likely source, according to Marie-Pierre Arnaud Lindet, for the traditions concerning the events that occurred after the battle of Naulochus is Livy's Book 129.²¹

¹⁷ Pomp. 2 ad Quintum Mucium in Dig. 50.16.118. Cf. T. Grunewald, *Bandits in the Roman Empire*, London 2004, 171.

¹⁸ Ulp. 1 inst. in Dig. 49.15.24. Cf. the discussion of the term *latro* by D. Braund, *Piracy under the Principate and the Ideology of Imperial Eradication*, in: *War and Society in the Roman World*, ed. J. Rich and G. Shipley, London 1993, 195–212, esp. 196, e.g., Thuc. 1.5 "treats bandits and pirates in the same breath" οἱ γὰρ Ἑλλήνες ... οἷ τε ἐν τῇ ἡπείρῳ παραθαλάσσιοι ... ἐτρέποντο πρὸς ληστείαν (the Greeks who lived on land by the sea ... turned to banditry).

¹⁹ Cf., on so-called domestic trials, Dumont, Servus, 126–9 (with reference to Cic. Clu. 176–187 and Plutarch Cat. Maj. 21.4: τοὺς δ' ἄξιον εἰργάσθαι τι θανάτου δόξαντας ἐδικαίου κριθέντας ἐν τοῖς οἰκέταις πᾶσιν ἀποθνήσκειν, εἰ καταγνωσθεῖεν [those (slaves) who appeared to have done something worthy of a capital penalty were put on trial before all the other slaves, and he sentenced them to death if they were convicted]). Two examples of fugitive slaves who were crucified, presumably after public tribunals, are: Tac. Hist. 2.72.2 Geta, the *fugitivus* crucified by Vitellius; Tac. Hist. 4.3.2 Vitellius crucified an escaped slave owned by Vergilius Capito (see 196 above).

²⁰ 6000 is not an absurd number. Josephus, for example, claims that Quintilius Varus who was the governor of Syria crucified 2000 rebellious Jews in 4 B.C.E. Cf. Jos. A.J. 17.295 and B.J. 2.75 (see 181 above). 6000 were crucified after the Spartacus revolt (Appian Bell. civ. 1.120.559 and cp. 171 above).

²¹ Arnaud-Lindet, Orose, 1.lvii (with ref. to Hist. 6.20.4–7 and 6.18.33–34). Cp. *ibid.*, 1.vii, xxv, xliii. For Orosius's text, cf. 159 above. Only the *Periochae* exist of books 128 and 129 of Livy's history.

Roman historical practice (the nature of the *servile supplicium*) indicates that the most common penalty for slaves was crucifixion.²² The slaves who participated in the three Sicilian slave revolts were crucified.²³ Marcus Perperna, for example, during the first Sicilian slave war crucified the captive slaves (*tandem Perperna imperatore supplicium de eis sumptum est*). Florus uses the same construction as the *Res Gestae* (*supplicium ... sumptum*) and makes it clear that Perperna punished them with fetters, chains, and crosses (*compedibus catenis crucibusque punivit*).²⁴

The phrase *supplicium sumendum*, when applied to slaves, is ominous. The *lex Puteolana* describes the fate of slaves condemned to death by their masters.²⁵ The relevant text begins: *qui supplic(ium) de ser(vo) servave privatim sumer(e) volet ...* (Whoever will want to exact punishment on a male slave or female slave at private expense ...).²⁶ The identical phrase for punishments of the slaves in the *Res gestae* appears in the *lex* (*supplicium ... sumere*). In Terence's *Andria*, Pamphilus asks his slave Davus what he deserves, and the slave answers, "the cross." Pamphilus, as *dominus*, then responds that he cannot exact punishment on him (*de te sumam supplicium*).²⁷ There are other pertinent examples. Scribonianus Camerinus²⁸ was murdered by one of Nero's slaves. Later a slave claimed to be Scribonianus. Vitellius had his doubts and questioned the imposter and exacted punishment on him in the servile way (*sumptum de eo supplicium in servilem modum*).²⁹ There is little doubt that the "servile way" refers to crucifixion. The fate of slaves captured after revolts (crucifixion) and the ominous phrase used by Augustus (*ad supplicium sumendum*) imply that most of the 30,000 slaves returned to their masters were probably crucified.

1.3 Martial

One of Martial's epigrams refers to a crucifixion of an unnamed slave by his master Ponticus:

Why have you cut out your slave's tongue, Ponticus, and why now crucify him? Don't you know that what he keeps quiet, everyone is talking about?

²² Cf. the index s.v. *servile supplicium*.

²³ Cf. 164–71 above for the Sicilian revolts and cf. 162 above (Liv. 22.33.1–2) for those crucified after the slave conspiracy in 217 B.C.E.

²⁴ Cf. Flor. Epit. 2.7 (olim 3.19.7–8) and 166 above.

²⁵ Cf. 370–87 above.

²⁶ *lex Puteolana* II.8 (370 above).

²⁷ Ter. Andr. 621–2 *Pamphilus: Quid meriti's? Davus: Crucem ... Pamphilus: Ei mihi / quom non habeo spatium, ut de te sumam supplicium, ut uolo* (Pamphilus: What do you deserve? Davus: the cross ... Pamphilus: Alas for me, that I don't have time to exact punishment on you as I'd like). See 58 above.

²⁸ PIR² L 241.

²⁹ Tac. Hist. 2.72.2 and cf. 195 above for the text and trans.

*Abscisa servum quid figis, Pontice, lingua?
nescis tu populum, quod tacet ille, loqui?*³⁰

Although Ponticus is likely a fictitious name, there may be a real individual lurking behind the pseudonym.³¹ One of the poet's principles is *parcere personis, dicere de vitiis* (spare the individuals, speak of their faults).³² Craig A. Williams refers to the very similar treatment of the slave Strato in a text of Cicero.³³ D. R. Shackleton Bailey thinks that Martial "may well have had in mind" the crucifixion of Strato.³⁴ Williams believes that "it is possible that the combination of mutilation and crucifixion was fairly widespread ... whether in actual practice or at least in the popular imagination of what might happen to slaves, and thus that Martial is not specifically relying on Cicero."³⁵ This text is "the only pre-Christian attestation of *figere* in the sense of 'crucify'."³⁶ Hans Lackenbacher, commenting on the missing word *cruci* (to the cross), argues that *figere* means *crucifigere* (nail, fasten to a cross), and mentions an early use in Tertullian who refers to Jesus's crucifixion with *taceo quod figitur* (I am silent that he is crucified/fixed).³⁷ R. G. Tanner believes that Martial's reference is to an impalement, but this is highly unlikely because Ponticus has to cut his slave's tongue out to stop him from speaking on

³⁰ Mart. 2.82, text and trans. of Martial, Epigrams. Book II, ed. with intro., trans., and comm. by C. A. Williams, Oxford 2004, 250–1.

³¹ É. Wolff, *Martial ou l'apogée de l'épigramme*, Rennes 2008, 53, 57 assumes that the Ponticus of the epigrams is the same individual and that he is a historical figure.

³² Cf. Williams, Martial, 8. Cf. Mart. 10.33.10. Williams (126), in a remark on 2.32 (where Ponticus is the poet's patron) notes that "the (fictional) name appears also in 2.82, 3.60, 4.85, 5.63, 9.19, 9.41."

³³ Cf. 189–90 above (Cic. Clu. 187).

³⁴ Martial, 3 vols., LCL, ed. and trans. D. R. Shackleton Bailey, Cambridge, MA 1993, 1.181.

³⁵ Williams, Martial, 251. He notes Martial's view (9.121) on the tongues of slaves (*lingua mali pars pessima servi* [the tongue is the worst part of a bad slave]).

³⁶ Williams, Martial, 252. He refers to Friedlaender's opinion that it may have been a colloquialism. See L. M. Friedlaender, *M. Valerii Martialis Epigrammaton Libri, mit erklärenden Anmerkungen*, Leipzig 1886, 276 (*figis* für *cruci figis* mag der Umgangssprache angehört haben"). Williams hypothesizes that the rarity of the usage may have occasioned the two textual variants: (family β) *quod fugis* and (family γ) *quid fingis*. See also the discussion of the unique usage in M. Wenzel, *Da nützt kein Vertuschen, kein Verschweigen zu Martial II 82*, *Hermes* 139 (2011) 395–7, esp. 395.

³⁷ Tert. Pat. 3.9. See H. Lackenbacher, *figo*, *ThLL* VI/1.710.13–721.14, esp. 712.49–54 (various examples of *figo* alone in early Christian texts about crucifixion) including some Old Latin MSS. Cf. Mark 15:20 (MS k = VL 1) *abduxerunt eum ad figendum* (they led him away to be crucified), 15:32 (MS k) *qui simul fixi erant cum eo* (who were crucified together with him), and John 19:23 (MS e = VL 2) *milites ergo cum fixissent ihm* (then when the soldiers crucified Jesus).

the cross, which would not be possible if the slave was impaled.³⁸ Martial does not seem very concerned with the cruelty suffered by the slave. Gossip appears to be the main theme of this epigram along with the futility of trying to stop it.³⁹ It seems doubtful, however, that there is any implication that “Ponticus is guilty of oral sexual practices.”⁴⁰ The similar incident in which Sassia had the slave Strato’s tongue cut off had nothing to do with oral sexual practices either.

The usage of the verb *figo* in several other contexts indicates that a person fixed on various objects, such as sharp rocks or sharp boards, is entirely insensible. Cicero, for example, quotes several texts from the *Thyestes* of Ennius in which Thyestes curses his brother Atreus⁴¹:

Thyestes curses with really splendid verses in Ennius, first that Atreus perish in a shipwreck. This is indeed harsh; for such a death is not without serious feeling. This is nonsense: “he himself fixed to the top of rough rocks, disemboweled, hanging by his side, sprinkling the rocks with gore, filth, and black blood.” The rocks themselves will not be freer of any feeling than the man “hanging by his side,” for whom he [Thyestes] thinks that he intends torment. How hard would they be if he [Atreus] had sensation! But <they are> nothing without sensation. This, however, is complete nonsense: “and he shall not have a tomb where he can withdraw, a haven for the body, where, once human life has been dismissed, the body can rest from troubles.”

exsecratur luculentis sane versibus apud Ennium Thyestes, primum ut naufragio pereat Atreus: durum hoc sane; talis enim interitus non est sine gravi sensu; illa inania: “Ipse summis saxis fixus asperis, evisceratus, / Latere pendens, saxa spargens tabo, sanie et sanguine atro,” non ipsa saxa magis sensu omni vacabunt quam ille “latere pendens,” cui se hic cruciatum censet optare. quae essent dura, si sentiret, <sunt> nulla sine sen-

³⁸ R. G. Tanner, Levels of Intent in Martial, ANRW II/32.4, 2624–77, esp. 2671 (he translates the clause as “You impaled your slave,” but includes no explanation).

³⁹ M. A. P. Greenwood, Martial, Gossip, and the Language of Rumour, in: *Toto Notus in Orbe. Perspektiven der Martial-Interpretation*, Palingenesia 65, ed. F. Grewing, Stuttgart 1998, 278–314, esp. 296. On “futility,” see Williams, Martial, 251.

⁴⁰ A view rejected by Williams, Martial, 252 and accepted by M. A. P. Greenwood, Talking Flamingos and the Sins of the Tongue: The Ambiguous Use of *lingua* in Martial, CPh 93, 1998, 241–6, esp. 242. Greenwood refers to the tongue’s protests of its sexual use in Lucian Pseudol. 25 ὥς ὄφελε κάμει τις ὅσπερ τὴν τῆς Φιλομήλας ἐκτεμεῖν. μακαριώτεροι γοῦν μοι αἱ γλῶτται τῶν τὰ τέκνα κατ’εθροκότων (would that someone would cut me out like the tongue of Philomela. More blessed indeed are the tongues of those who devour children). The contention of Wenzel, Da nützt kein Vertuschen, 396 that the *abscisa lingua* (amputated tongue) of the unnamed slave stands in opposition to the *lingua fellans* (fellating tongue) of Ponticus seems impossible to demonstrate.

⁴¹ J.-P. Aygon, Le banquet tragique: le renouvellement du thème dans le *Thyeste* de Sénèque, Pallas 61 (2003) 271–84, esp. 278 argues that the context is unclear: either “after Thyestes has eaten his children or later when Atreus has begun his pursuit of him.”

su. illud vero perquam inane: "Neque sepulcrum, quo recipiat, habeat, portum corporis, / Ubi remissa humana vita corpus requiescat malis."⁴²

Cicero's point is that Atreus has no sensation whatsoever, because he is fixed on the sharp rocks (that is, impaled by them). Lucan, in a description of the aftermath of the naval battle between Caesar's forces and those of Massilia, describes the brutal death of a youth: ... *tunc unica diri / conspecta est leti facies, cum forte natantem / diversae rostris iuvenem fixere carinae* (then a unique spectacle of a horrific death was observed, when by chance opposing ships transfixing a youth who was swimming with their beaks).⁴³ The uses of *figo* for different versions of impalement share a common characteristic: the narrators seem shocked at the viciousness of the deaths. In addition, it is apparent that the victims cannot speak. The crucifixion of the anonymous slave to which Martial alludes indicates that a crucified individual could speak, unless his (or her) tongue were cut out, and the crucifixion may be historical.

1.4 The Trial of Jesus and *maiestas*

Eckhard J. Schnabel has recently argued that the charge against Jesus was *maiestas* (high treason).⁴⁴ In particular, he writes, "While the texts of Cicero, Suetonius, Seneca, Tacitus, the *Digesta* and the *Institutiones* do not establish the precise legal authority under which Pontius Pilatus operated in A.D. 30, they describe the legal context of Jesus' trial before the *praefectus Iudaeae*."⁴⁵ All the texts Schnabel quotes refer either to trials for *maiestas* or discussions for *maiestas* in juristic texts. One of the texts of Cicero, for example, mentions the conviction of a Bulbus for *maiestas*.

I admit it [the charge of *maiestas* against Bulbus], but it was also made evident by the correspondence of Gaius Cosconius and the evidence of many witnesses that had he incited a legion in Illyricum; this charge belonged before that court, and the facts were covered by the *lex maiestatis*.

*Fateor, sed etiam legionem esse ab eo sollicitatam in Illyrico C. Cosconi litteris et multorum testimoniis planum factum est, quod crimen erat proprium illius quaestionis et quae res lege maiestatis tenebatur.*⁴⁶

⁴² Cic. Tusc. 1.107, trans. of Fragmentary Republican Latin. Ennius. Dramatic Fragments. Minor Works, vol. 2, LCL, ed. and trans. S. M. Goldberg and G. Manuwald, Cambridge, MA 2018, 137. Cf. Enn. Scen. (Thyestes) 362–5 Vahlen. Lackenbacher (*figo*, VI.1.712.53) believes *saxis* is an ablative, although he concedes it could be a dative.

⁴³ Luc. 3.653–5. Ammianus 17.7.5 describes an earthquake, in the aftermath of which "others hung fixed on the sharp points of protruding boards" (*alii lignorum exstantium acuminibus fixi pendebant*).

⁴⁴ Chapman and Schnabel, Trial and Crucifixion, 210–43.

⁴⁵ Chapman and Schnabel, Trial and Crucifixion, 210–11.

⁴⁶ Cic. Clu. 97, trans. of Chapman and Schnabel, Trial and Crucifixion, 215 and cf. the commentary on 217.

The individual in question was a senator, M. Atilius Bulbus.⁴⁷ This text illustrates the fundamental problem with Schnabel's hypothesis: none of his texts describe the trial of a *peregrinus* (non-Roman citizen) for *maiestas*. Certainly none of the examples describe the trial of a foreigner of humble origins like Jesus.⁴⁸ It is possible that a trial of a *peregrinus* for *maiestas* will be found in a papyrological source. In the case of Jesus, however, the best option for understanding the charge against him remains *seditio* or some sort of political troublemaking.⁴⁹ In the first century there were many such crucifixions in Palestine.⁵⁰

1.5 The Burial of Jesus's Crucified Body

John Dominic Crossan has asserted that Jesus's corpse was thrown into a shallow grave and eaten by dogs. The thesis is based on his claim that in Gos. Pet. 5.15–6.21 the Jews allegedly bury Jesus in a “shallow grave barely covered with stones from which the scavenging dogs would easily and swiftly unbury the body.” This is incorrect, however, because the Jews in Gos. Pet. 6.21 did not bury Jesus but laid him on the ground (ἐθήκαν αὐτὸν ἐπὶ τῆς γῆς).⁵¹ There is no reference to a shallow grave covered with rocks. Crossan mentions the Roman practice of leaving crucified bodies for “wild beasts and birds of prey.”⁵² There are indeed many texts that refer to the practice.⁵³

⁴⁷ Cf. Bauman, *Crimen Maiestatis*, 80–1 and T. R. S. Broughton, *The Magistrates of the Roman Republic*, 99 B.C. – 33 B.C., vol. 2, Cleveland 1968, 88, 488, 534 (senator in 74 B.C.E.). For trials of Romans for *maiestas*, see J. G. Cook, *Roman Penalties Regarding Roman Citizens Convicted of Heavy Charges in I CE*, in: *The Last Years of Paul. Essays from the Tarragona Conference*, June 2013, WUNT 352, ed. A. Puig i Tàrrach, J. M. G. Barclay, and J. Frey, Tübingen 2015, 271–303, esp. 285 and Table 1.

⁴⁸ On this objection to *maiestas* as the charge against Jesus, cf. Aubert, *Double Standard*, 122 and Cook, *Crucifixion and Burial*, 196, 198–203.

⁴⁹ Cf. 184–5 above.

⁵⁰ On this point, cf. Cook, *Crucifixion and Burial*, 197–8 and the review of Roman crucifixions above.

⁵¹ J. D. Crossan, *Jesus. A Revolutionary Biography*, New York 1994, 154–6. He thinks the Christian community invented the existence of Joseph but provides no argumentation for that thesis other than the contention that there is an alleged inconsistency between being a respected member of the Sanhedrin (Mark 15:43), who Crossan claims was “on the side of those who crucified Jesus,” and being an individual “on the side Jesus' followers” (waiting for God's kingdom). There is no contradiction, and Crossan simply makes an error in logic, since his claim that a respected member of the Sanhedrin must be on the side of those who advocated the crucifixion of Jesus is patently absurd. Crossan's position about the burial has been adopted by B. Ehrman, *How Jesus Became God. The Exaltation of Jewish Preacher from Galilee*, New York 2014, 157–60. Much of the material in this section is taken from my *Crucifixion and Burial*. Cf. the text in T. J. Kraus and T. Nicklas, ed., *Das Petrus-evangelium und die Petrusapokalypse. Die griechischen Fragmente mit deutscher und englischer Übersetzung*, GCS Neutestamentlichen Apokryphen 1, Berlin 2004, 34–6.

⁵² Crossan, *Jesus*, 124.

These texts, however, do not imply that there were not ultimately burials of the remains of the crucified individuals. The bodies had to be disposed of eventually. What militates against Crossan's hypothesis is the lack of support for it in the Gospel of Peter and the positive support for Jesus's burial in Paul (1 Cor 15:4) and the Gospels. Archaeological evidence for the burial of crucified bodies in Palestine certainly exists in the case of Jehoḥanan ben Ḥagqol. Crossan's objection that only one such body has been found establishes nothing, because it is the only firm evidence in the entire Mediterranean world for a skeleton of a crucified body.⁵⁴ No mass graves, shallow graves, or any other kind of grave have been shown to contain crucified individuals – whether they were eaten by animals or immediately buried by their families. The skeletal evidence cannot establish how many crucified individuals were immediately buried and how many were not. There is literary evidence and evidence from legal texts for the burial of crucified bodies.⁵⁵ Josephus was shocked that the Idumaeans cast out bodies unburied of those they had killed during the Jewish war. But he clearly asserts that it is the Jewish custom to bury those sentenced to crucifixion in Palestine.⁵⁶ The text quoted above from Augustus's autobiography indicates that "The corpses of those who were sentenced to die are not to be withheld from their relatives."⁵⁷ Jean-Jacques Aubert has argued that generally Romans would not want to see hanging crucified corpses, "except for the sake of example."⁵⁸

1.6 *Ardalio the Mime*

There is some ambiguity in the texts that describe the fate of Ardalio. It is possible that he was suspended and "combed" or "clawed" on a simple post. The text from the *Synaxarium* quoted above merely uses the verb ἀνασκηθεῖς, which can be used for crucifixion or suspension.⁵⁹ Nicolaus Cabasilas, however, specifies that the mime was not only of the martyrs'

⁵³ Cf. the survey in Cook, *Crucifixion and Burial*, 206–9. For examples, see 387 above. In addition, see Ps. Manetho *Apotelesmatica* 4.200, Plutarch *An. vit.* 499D (and the texts on p. 243), V. Max. 6.9. ext.5, and Philo Flacc. 84 (the practice of a notorious prefect). In Prud. Peri. 11.65–6 the judge tells the torturer: ... *crux istum tollat in auras / uiuentesque oculos offerat alitibus* (let the cross lift that one into the sky, and let him offer his living eyes to the birds).

⁵⁴ Crossan, *Jesus*, 124–5.

⁵⁵ See p. 387 and 429 above. In particular, the *lex Puteolana* has provisions for the municipal burial of crucified individuals (cf. 385–7 above).

⁵⁶ Josephus B.J. 4.317 (239 above). Semahot 2.9 (44b) implies that the Romans allowed the immediate burial of some executed bodies (see 331–2 above).

⁵⁷ Cf. 386 for the text and ref.

⁵⁸ Cook, *Crucifixion and Burial*, 209 (private communication).

⁵⁹ Cf. p. 211 for the text and ref.

constancy but also of the passion of Christ. Ardalion had watched the sufferings of the other martyrs:

Because he imitated the passion of the savior, he was baptized not in symbols or images, but in the realities themselves. For he played the part of the good confession and the constancy of the martyrs. And he, the comic, was suspended (or “crucified”) nude on the wood by the comics ... But he was no less blind still and fighting the light, until he was baptized, receiving the *stigmata* (wounds) of Christ and confessing the good confession. For this is the definition of baptism, to imitate the witness of Christ before Pilate and the endurance for the sake of the witness even unto the cross and death.

Ἐβαπτίσθη δὲ οὐ συμβόλοις οὐδὲ εἰκόσι τὸ πάθος μιμησάμενος τοῦ Σωτῆρος, ἀλλ’ αὐτοῖς τοῖς πράγμασι. Καὶ γὰρ τὴν καλὴν ὁμολογίαν καὶ τὴν τῶν μαρτύρων ὑπεκρίνατο καρτερίαν· καὶ ἀνηρτήθη μὲν ἐπὶ τοῦ ξύλου γυμνός, παίζων ὑπὸ παιζόντων· ... ἀλλ’ ἦν οὐδὲν ἥττον ἔτι τυφλώτων καὶ τῷ φωτὶ πολεμῶν, ἕως ἔβαπτίσατο, τὰ στίγματα τοῦ Χριστοῦ δεξάμενος καὶ τὴν καλὴν ὁμολογίαν ὁμολογήσας. Τοῦτο γάρ ἐστιν ὁ τοῦ βαπτίσματος ὅρος, Χριστοῦ μιμήσασθαι τὴν ἐπὶ τοῦ Πιλάτου μαρτυρίαν καὶ τὴν μέχρι σταυροῦ καὶ θανάτου περὶ αὐτῆς καρτερίαν.⁶⁰

Although one cannot be certain, the martyrological tradition seems to imply that Ardalion was suspended on an object like a cross to mime the passion of Christ.

2 Archaeological Material

2.1 The Abba Cave and Alleged Nails used in Crucifixion

A burial cave was discovered in 1971 in Giv’at ha-Mivtar, “between Midbar Sinai and Sheshet-Hayamim streets.” There was an inscription in paleo-Hebrew letters, dated to the second or first century B.C.E. that was “incised on a wall above the loculus” in the “burial cave”⁶¹:

I, Abba, son of the priest El’az(ar), son of Aharon the elder/teacher, I, Abba, the afflicted (and) the persecuted, who was born in Jerusalem and exiled to Babylon; and he brought (lit. raised) Matatai son of Yehud and buried him in the cave which I bought by a deed.⁶²

אנא אבה בר כהנה א
לעז בר אהרן רבה א
ה אבה מעניה מרד

⁶⁰ Nicolaus Cabasilas *Vita in Christo* 2.83, 85 (SC 355, 210–15 Congourdeau [I consulted her trans.]).

⁶¹ H. M. Cotton, et al., *Corpus Inscriptionum Iudaeae / Palaestinae*. A Multi-Lingual Corpus of the Inscriptions from Alexander to Muhammad. Volume I: Jerusalem. Part 1:1–704, Berlin 2010, 98–101, esp. 98 (J. J. Price and A. Yardeni).

⁶² CIIP 55, text and trans. from Cotton, et al., *Corpus* 1.1, 98–101 (J. J. Price and A. Yardeni).

פה די ילמרושלם
ונלאבבלואסקלמות
י בריהוד וקברתדבמ
ערתה דיבנת בנטה

Several scholars have identified Mattathiah with the last Hasmonean ruler, Antigonus, and have contended that the remains in the tomb indicate that his head was severed. Two ossuaries were found in the cave. Patricia Smith notes that “the remains of two adults were interred in [one] ossuary” along with those of a juvenile.⁶³ Since so much confusion has emerged in the literature, it seems best to quote her report extensively. It includes this notation about the bones found in the ossuary⁶⁴:

Limbs. The radii, ulnae, tibia and femura of two adults and the proximal portion of an infant’s tibia. Only one bone was complete enough to be measured. This was the left femur of a gracile individual, which measured 39 cm., giving a total height of 148 cm. The second individual was probably some 6–8 cm. taller. Two iron nails were found in association with the phalanges. One had the base of a proximal phalange adhering to it. The second, which was bent, had a proximal phalange adhering to one side and a medial phalange to the other.⁶⁵ In neither case had the nail perforated the bone. A third nail was also present, but no bones were in contact with it.⁶⁶

The nails were not associated with any grooves or scratch marks on the phalanges. Smith concludes that one of the adults was “fairly young” about “25–40” because of “coronary sutures,” and “probably male.” The younger individual showed “no signs of arthritis.” “The porotic thoracic and lumbar vertebrae described for the second individual is pathognomic of arthritis of the ver-

⁶³ P. Smith, *The Human Skeletal Remains from the Abba Cave*, IEJ 27 (1977) 121–4, esp. 123. For a drawing and photographs of the tomb, inscription, and ossuary (but not the skeletal remains), see V. Tzaferis, *The “Abba” Burial Cave in Jerusalem* (ביהמלך אבה, ‘Atiqot: Hebrew Series עברית סדרה) (1974) 60–4, Plates xviii–xx, English Summary 9* (“the ossuary contained the bones of two males, aged c. 25 and 65, and of a three year old boy”).

⁶⁴ Professor Smith informs me (26 July 2018) that “I was only called in some time after the bones had been removed from their original context so had no opportunity to evaluate how the bones may have originally been stacked in the ossuaries.” I am grateful for her comments.

⁶⁵ Professor Smith writes (communication of 26 July 2018) that in the second case, the one with the nail stuck to the proximal and medial phalanges, the size of those bones indicated that the individual in question was an adult male. J. Zias, *A Jerusalem Tomb, “Blind Leading the Blind” or Just another Day in Paradise?*, *The Bible and Interpretation*, April 2014 (<http://www.bibleinterp.com/articles/2014/04/zia388008.shtml>) n. 8 remarks that “the nails adhering to the phalanges are more in the realm of tacks, rather than the nails which would have been used for crucifixion” (accessed 31 July 2018).

⁶⁶ Smith, *the Human Skeletal Remains*, 121 and 124. Cf. also Y. Elitzur, *The Abba Cave: Unpublished Findings and a New Proposal Regarding Abba’s Identity*, IEJ 63 (2013) 83–102 (an argument for identification as Antigonus). J. M. Grintz, *The Inscription from Giv’at ha-Mivtar: A Historical Interpretation*, Sinai 75 (1974) 20–3 (Hebrew): Mattathiah is Antigonus.

tebral column. In association with the *ante mortem* tooth loss recorded, this would suggest an older age for the second individual with the cut mandible.” The remains of two mandibles were found in the ossuary, one from a young male with no cut marks, and one from an elderly female with cut marks. Most importantly, “tentative identification of this individual as female was based on the smaller size and gracility of the femur and mandible of the specimen.” Smith argues that “the sharp surface of the cut edges of the mandible previously described and good apposition of the cut surfaces indicates that the cuts were made with a sword rather than an axe and when the bone was fresh – that is to say, either during life or very soon after death.” The odontoid process was “probably broken by a blow from the same instrument used in striking the jaw.” She concludes from the broken surfaces: “that the blow or blows were given from the side” and “since the blow or blows passed through the mandible and must have sheared off most of the face, it would seem likely either that the victim was moving at the time, for instance in battle, or in an attempt to dodge the blow, or that the executioner was rather inept.”⁶⁷ Since the “iron nails did not penetrate the bone; it would not seem, therefore, that this can be considered evidence of crucifixion.”⁶⁸ She adds, “the identification of the remains of the individual with the cut mandible and odontoid process as female and elderly was confirmed by independent observations made by another anthropologist” (Baruch Arensburg).⁶⁹ Consequently, the remains of the person who was decapitated are not those of the Mattathiah mentioned in the inscription.⁷⁰

⁶⁷ The “mandible with the cut marks came from an old partly edentulous individual, probably female,” and “the second mandible from the male had no cut marks” (communication of Patricia Smith, 26 July 2018). For details, cf. Smith, *Human Skeletal Remains*, 122.

⁶⁸ Smith, *Human Skeletal Remains*, 123–4 (all quotations above).

⁶⁹ Smith, *Human Skeletal Remains*, 124. Another physical anthropologist, Vilhelm Møller-Christensen of Denmark, agreed with the conclusions of Professor Arensburg (from the Tel Aviv Medical School) that the beheaded individual was an “elderly female.” Cf. Zias, *A Jerusalem Tomb*. Elitzur’s references (The Abba Cave, 88–9) to the views of Nicu Haas on an Israeli television show (“Last of the Maccabees”), in which Elitzur notes that Haas identified the decapitated individual as a young tall man, is highly problematic. Joe Zias, who took the ossuary to the studio, heard Haas tell the producer before the show, “the individual in question who indeed had been beheaded was not young, but a somewhat aged individual.” Haas, when further questioned by the producer, “and faced with the dilemma in which the whole story was based to some extent on this one skeleton” was willing to then identify the individual as a man in his “mid-thirties” (see Zias, *A Jerusalem Tomb*).

⁷⁰ Following the unfortunate accident of Haas, Joe Zias was asked to remove all skeletal material from Haas’s lab. The material was transferred to his lab where it remained for almost two decades. Zias and others do not agree with any of the claims (e.g., that one of the sets of remains is “Antigonus”) by various scholars as to the identity of the individuals interred there. This is from a communication of 26 July 2018 from Dr. Joe Zias.

Before returning to this alleged identification, a review of the means of Antigonos's execution by Mark Antony in 37 B.C.E. is worthwhile. Josephus reports:

The prisoner, to the last clinging with forlorn hope to life, fell beneath the axe, a fitting end of his ignominious career.

τοῦτον μὲν οὖν φιλοψυχήσαντα μέχρις ἐσχάτου διὰ ψυχρᾶς ἐλπίδος ἄξιος τῆς ἀγεννείας πέλεκευς ἐκδέχεται.⁷¹

He further writes that Antony executed him with an axe in Antioch, because the reluctance of the Jews to accept Herod could scarcely be stilled by any other means (τοῦτον ἐν Ἀντιοχείᾳ πελεκίσαι· σχεδὸν γὰρ οὐδ' ἄλλως ἡρεμεῖν ἠδύναντο οἱ Ἰουδαῖοι).⁷² In a quotation from Strabo, Josephus confirms this report:

And after Antony brought Antigonos the Jew to Antioch he cut off his head (with an axe). And he appeared to be the first Roman to behead a king (with an axe)...

Ἀντώνιος δὲ Ἀντίγονον τὸν Ἰουδαῖον ἀχθέντα εἰς Ἀντιόχειαν πελεκίζει. καὶ ἰδοῦς μὲν οὗτος πρῶτος Ῥωμαίων βασιλέα πελεκίσαι⁷³

Plutarch likewise insisted that no other king had been beheaded by the Romans:

... he [Antony] deprived many monarchs of their kingdoms, as, for instance, Antigonos the Jew, whom he brought forth and beheaded, though no other king before him had been so punished.

πολλοὺς δ' ἀφηρεῖτο βασιλείας ὥς Ἀντίγονον τὸν Ἰουδαῖον, ὃν καὶ προαγαγὼν ἐπέλεκεν, οὐδενὸς πρότερον ἑτέρου βασιλέως οὐ τοῦτο κολασθέντος.⁷⁴

So far, nothing appears to be out of the ordinary with regard to the mode of execution. What is unusual is the execution of a king. Cassius Dio includes details of Antony's torture (by flagellation) of Antigonos before his execution:

Antony entrusted them [the Jews] to Herod to rule, but he scourged Antigonos after binding him to a stake, which no other king had ever suffered from the Romans, and after this he executed him.

ἐκείνους μὲν οὖν Ἡρόδῃ τινὶ ὁ Ἀντώνιος ἄρχειν ἐπέτρεψε, τὸν δ' Ἀντίγονον ἐμαστίζωσε σταυρῷ προσδήσας, ὃ μηδεὶς βασιλεὺς ἄλλος ὑπὸ τῶν Ῥωμαίων ἐπεπόνθει, καὶ μετὰ τοῦτο καὶ ἀπέσφαξεν.⁷⁵

⁷¹ Josephus B.J. 1.357, trans. of Thackeray, Josephus, 2.167. In Ant. 14.490 Josephus claims that Herod gave Antony a great deal of money to persuade him to execute Antigonos (πολλοὺς χρήμασι πείθει τὸν Ἀντώνιον ἀνελεῖν Ἀντίγονον).

⁷² Josephus Ant. 15.9.

⁷³ Josephus Ant. 15.9 = Strabo FGrH 91 F18.

⁷⁴ Plutarch Ant. 36.4, trans. of Perrin, Plutarch, Lives, 9.219.

There seems to be no evident justification for translating this usage of σταυρός as “cross.”⁷⁶ There is no implication in the text of a suspension, and it is well-known that in other contexts it was Roman practice to bind victims to some kind of stake (*palus*), scourge them, and then behead them.⁷⁷ The frequency of this practice helps the reader of Cassius Dio decide on the proper meaning of *stauros*: not “cross,” but post or stake in the ground, to which one being executed was attached before scourging and execution by the axe.

The evidence for this sequence (flogging or beating, execution by the axe [*securi percussio*]) may be found in many texts. A Capuan leader (Vibius Virrus) of a rebellion against Rome (211 B.C.E.), for example, makes this statement to his fellow citizens:

... I will not be dragged in chains through the city of Rome as spectacle at a triumph, only to be taken to prison or bound to a stake, my back torn by the beatings of rods, and to offer my neck to a Roman axe;

... *neque uinctus per urbem Romanam triumphi spectaculum trahar, ut + deinde + in carcerem aut ad palum deligatus, lacerato uirgis tergo, ceruicem securi Romanae subiciam*.⁷⁸

⁷⁵ Cassius Dio 49.22.6.

⁷⁶ A curious translation by Cary, Dio. 5.387, adopted by C. A. Evans (Jesus and the Remains of His Day. Studies in Jesus and the Evidence of Material Culture, Peabody, MA 2015, 122). Elitzur is aware of this problem and translates the text of Dio as “but Antigonus he bound to a pale (or a cross) and flogged” (The Abba Cave, 91).

⁷⁷ Cp. the preface above, n. 49. In the inauthentic (as it stands) *Passio Carpi* there are several instances where the martyrs are suspended to be tortured. Carpus: (Pass. Carp. 2) *iussit eum suspendi, cumque torqueretur ... proconsul iussit eum suspendi et ungulari. cum autem ungularetur super modum, laboravit et vocem dae non valuit* (he commanded that he be suspended, when he was tortured ... the proconsul commanded that he be suspended and clawed) = 23 ἐκέλευσεν κρεμασθέντα ξέεσθαι. ... ἐπὶ πολὺ δὲ ξέόμενος ἔκαμνεν καὶ οὐκέτι ἵσχυσεν λαλῆσαι (he commanded that after being suspended he be clawed ... after being extensively clawed, he became exhausted and could no longer speak). The verb *ungulo* is late Latin (cf. C. du Cange, et al., Glossarium mediae et infimae latinitatis, Niort 1883–7, 8 col. 369b s.v.). Pamphilus: (Pass. Carp. 3 *Pamphilus ... cum autem suspensus esset, iussit ut ungularetur* (when he was suspended, he commanded that he be clawed) = 35 ἀνακρεμασθεὶς δὲ καὶ οὗτος καὶ ξέόμενος (after being suspended, he was also clawed). On clawing (or combing), cf. pp. 211–2 (other refs. to being suspended and tortured), and 410 above.

⁷⁸ Liv. 26.13.15, trans. of C. A. Williams, Roman Homosexuality. Ideologies of Masculinity in Classical Antiquity, Oxford 1999, 105. In Liv. 28.29.11 (206 C.E.), mutinous soldiers are tied to the stake, beaten with rods, and beheaded by the axe (*deligati ad palum uirgisque caesi et securi percussi*). Cp. Liv. Per. 26: *cum senatus Campanorum deligatus esset ad palos, ut securi feriretur ...* (When the senators of the Campanians [Capuans] had been bound to stakes to be executed by the axe ...). Valerius Maximus (5.8.1) traces the practice back to the earliest days of Rome: In praise of Lucius Brutus, he writes that after his sons tried to reestablish the tyranny of Tarquin, “Brutus was the head of state, and ordered that his sons be captured, beaten with rods in front of his platform, tied to a stake, and beheaded with

The *lex Valeria*, according to Livy, protected a citizen who appeals being flogged and executed by axe (*Valeria lex cum eum, qui provocasset, virgis caedi securique necari vetuisset*).⁷⁹ Donato Fasolini discusses a number of such examples (flogging and execution by axe).⁸⁰

Being flogged or beaten at the stake did not always precede execution, of course. It was a punishment in itself. Aulus Gellius preserves a speech of Gaius Gracchus (On the Promulgation of Laws [*De legibus promulgatis*], 122 B.C.E.) that describes a number of abuses by Roman magistrates. In Teanum Sidicinum a consul punished a quaestor, Marcus Marius, for not emptying the baths quickly enough so that the consul's wife could use them: "a stake was set up, he [Gracchus] said, in the forum, his clothing was stripped off, and he was beaten by rods" (*palus inquit in foro destitutus est, vestimenta detracta sunt, virgis caesus est*).⁸¹ There is abundant evidence that Roman citizens, despite their status, were beaten with rods or even scourged.⁸²

The consequence of these examples is clear. There is no evidence for the claim that Antigonus was suspended on a cross of whatever shape, scourged, then lowered, and executed by axe. This has certain implications for the somewhat sensational attempts to identify the individual in the Abba tomb with the last Hamonean ruler, Mattathiyah Antigonus.⁸³ Yoel Elitzur writes that Nicu Haas examined the bones in the ossuary "immediately after their discovery." Elitzur's attempt, however, to avoid the conclusions of physical anthropologist Patricia Smith (and many others) appears to be a counsel of desperation:

Patricia Smith, on the other hand, received a cardboard box of bones that had been lying around Haas' office ... Haas, who before his accident had been responsible for investigating all the bones found in the hundreds of ossuaries discovered in Jerusalem, must have

an axe" (*summum imperium obtinens comprehensos proque tribunali uirgis caesos et ad palum religatos securi percuti iussit*), trans. mod. of Walker, Valerius Maximus, 192.

⁷⁹ Liv. 10.9.4, cf. p. 366 above. See also Cic. Rep. 2.53 *legem ad populum tulit ... ne quis magistratus civem Romanum adversus provocationem necaret neve verberaret* (Publicola ... brought a law before the people ... that no magistrate kill or lash a Roman citizen in the face of *provocatio* [trans. of J. E. Gaughan, *Murder was not a Crime. Homicide and Power in the Roman Republic*, Austin, TX 2010, 53]), 2.62 *non provocatione ad populum contra necem et verbera relicta* (*provocatio* to the people against execution and lashes remained no longer), Mommsen, *Strafrecht* 42, and Cantarella, *I supplizi*, 154–7.

⁸⁰ D. Fasolini, *Su un caso particolari di summum supplicium* sotto Claudio (Svet. *Claud.* 25, 3), in: *Analecta Brixiana II. Contributi dell'Istituto di Filologia e storia dell'Università Cattolica del Sacro Cuore*, ed. A. Valvo and R. Gazich, Milan 2007, 93–103, esp. 98–101.

⁸¹ Gel. 10.3.11. The entire section (10.3) includes several other examples in which prominent individuals were flogged or beaten while stripped. See H. Malcovati, *Oratorum romanorum fragmenta liberae rei publicae*, Torino ³1953, 190–3.

⁸² Cf. Cook, *Roman Penalties*, 272–7.

⁸³ The name, Mattathiyah (מַתְּתִיָּה), is from his coins. Cf., e.g., D. Hendin, *Guide to Biblical Coins*, New York ²2010, § 1162–68 and Schürer, *History*, 1.281 (full bibliography).

kept the skeletal remains belonging to various people in his office; maybe he gave himself license to store some of them together, knowing that he could distinguish between the different bones.⁸⁴

There is no evidence whatsoever for Elitzur's contention. Consequently, one can only conclude that the identification of the skeletal remains in the Abba tomb with Antigonos is patently unwarranted.⁸⁵

The execution of Antigonos is interesting from a linguistic perspective. Dio's text illustrates a basic principle: context is key for deciding which possible meaning of a word is correct.⁸⁶ The text of Dio also illustrates another contention of this monograph: Latin texts, particularly their usage of the word *crux*, provide a clearer technical vocabulary for Roman penalties than do the Greek texts. Dio uses σταυρός for the object to which Antony bound Antigonos to scourge him. A Latin author, however, would use *palus* for the stake to which an individual is bound for beating with rods or whips and not *crux*. This is abundantly clear from the textual evidence above that describes individuals beaten or flogged at the stake. Latin authors tended to use *stipes* for the stake to which an individual is bound for execution by wild beasts (*damnatio ad bestias*) or burning (*crematio*).⁸⁷ The slave Blandina, for example, during the persecution in Gaul, was hung on a stake (ἡ δὲ Βλανδῖνα ἐπὶ ξύλου κρεμασθεῖσα) to be executed by wild animals.⁸⁸ Eusebius remarks that "she appeared to be suspended in the shape of a cross" (διὰ τοῦ βλέπεσθαι σταυροῦ σχήματι κρεμαμένη).⁸⁹ Rufinus, in his Latin translation, adopts *stipes* for the stake: *Blandina religata ad stipitem atque in crucis modum distenta*.⁹⁰ A classical Latin author would not use *crux* for the stake used in flagellation, *crematio*, or *damnatio ad bestias*.⁹¹

⁸⁴ Elitzur, Abba Cave, 92–3.

⁸⁵ I cannot agree with my friend and colleague Craig Evans (Jesus and the Remains of His Day, 121–2), who identifies one of the individuals found in the tomb as Antigonos. I thank Professor Evans for his willingness to debate this intriguing find with me and to share his research in Jerusalem.

⁸⁶ See p. 30 above.

⁸⁷ For *stipes* used in *crematio*, see pp. 380–2 above.

⁸⁸ Cf. p. 192 above. In a variation of *damnatio ad bestias*, Nero dressed in wild animals' skins to rape men and women attached to stakes, according to Suetonius (Nero 29: *ad stipitem deligatorum*). Cf. Cook, Roman Attitudes, 79.

⁸⁹ Eus. H.E. 5.1.41 (p. 192 above).

⁹⁰ Ruf. Hist. 5.1.41 (p. 400).

⁹¹ I am aware of a late exception to this rule (with the verb *crucifigo*), in one of the unreliable martyr acts. Pamphilus is stripped, nailed to a stake, and burned. The Latin version has: *proconsul ... data sententia iussit eos vivos incendi ... expoliantes primo Pamphilum ligno crucifixerunt. cum autem fuisset erectus ...* (the proconsul ..., when the sentence was delivered, commanded that they be burned alive ... after stripping him, they nailed Pamphilus against a stake). Cf. Pass. Carp. 4 (44 Franchi de' Cavalieri). The original Greek term which the translator found was προσήλωσαν according to P. Franchi de' Cavalieri, Note agiografiche, fasc.

2.2 The Nails found in the Caiaphas Tomb

Many nails have been found in Jewish tombs. In some cases, archaeologists have been able to determine their purpose (e.g., engraving inscriptions, holding wooden ossuaries together, etc.), but at this time no scholar has undertaken to publish any finds of nails that have pierced human bones – that is, nails used for crucifixion – other than the one already discussed in the monograph.⁹² It is possible to determine the species of a bone fragment, and the chemical composition of human bone is quite different from that of the limestone in the burial caves.⁹³ Zvi Greenhut describes the two nails that were found in the Caiaphas tomb:

6, Studi e testi 33, Roma 1920, 44 (MS B [the Latin recension] = Codex 4 of S. Alessandro in Colonna, Bergamo, XI C.E.). MS A (Parisinus gr. 1463 XII C.E.) of Pass. Carp. 37 has καὶ πρῶτος ὁ Παπύλος προσηλωθεὶς εἰς τὸ ξύλον ἀνωρθώθη (and first Papyrus, after being nailed to the post, was set up erect; cf. A. R. Bastiaensen et al., *Atti e passioni dei martiri*, [Milano] 1987, 42). Barnes classifies the *Acts of Carpus, Papyrus, and Agathonice* among those texts that “have no right to be regarded as either authentic or contemporary” (Hagiography, 355). He (ibid., 45) does concede that “Eusebius [H.E. 4.15.48] found ... the *acta* of Carpus, Papyrus and Agathonice in a more primitive version than either of the versions that survive in Greek and Latin ... neither of the two extant recensions can be completely authentic and neither contains an explicit date.” The uses of *crucifigo* for “nailing” alone in the Latin recension is as late (and non-classical) as is the use of *ungulare* in the same Acts quoted above (n. 77). Pionius was also nailed to a wooden stake to be burned upright (M. Pion. 21.3, 5 καθηλωθέντι δὲ αὐτῷ ... ἀνωρθώσαν οὖν αὐτὸν ἐπὶ τοῦ ξύλου).

⁹² Cf. R. Hachlili, *Jewish Funerary Customs, Practices, and Rites in the Second Temple Period*, Leiden 2005, 400 (iron nails from tombs in Jerusalem, some perhaps for magical practice), 401–34 (tables of objects found in tombs including nails), 507–8 (nails and “magic”), 511–12 (nails placed in tombs for magical practices and other reasons), 515 (various possible reasons for placing nails in tombs), 578 (index, s.v. Iron nails), Pl. XI–14 (“chisels and iron nails found in Goliath tomb, Jericho”). See p. 336 above for magical uses of crucifixion nails in rabbinic texts. G. Monette, *The Wrong Jesus. Fact, Belief, Legend Truth ... Making Sense of What You’ve Heard*, Carol Stream, IL 2014, 221 n. 8 remarks that Israel HersHKovitz of Tel Aviv University possesses two first century nails with traces of bones on them. Evans, *Jesus and the Remains of His Day*, 142–3 identifies the two nails as “found in or near the ossuary bearing the two inscriptions referring to ‘Yehoseph bar Qayapha’ ... One nail is straight but has been broken ... The other nail is bent, almost at ninety degrees. There are traces of human calcium on the broken nail and there are traces along the length of the bent nail as well as a substantial amount of calcium affixed to its head.” Evans concedes that the presence of calcium could be due to chance contact with human bones.

⁹³ For the determination of the species of bone fragments (the size of the bone sample needed may be problematic for archaeologists), cf. J. Aerssens, S. Boonen, G. Lowet, and J. Dequeker, *Interspecies Differences in Bone Composition, Density, and Quality: Potential Implications for in Vivo Bone Research*, *Endocrinology* 139 (1998) 663–70. Arthur Sikora (chemistry, communication of 25 Aug. 2018) writes that the chemical formula for bone is $\text{Ca}_{10}(\text{PO}_4)_6(\text{OH})_2$, whereas limestone is composed of Calcium Carbonate (CaCO_3). I thank Professor Sikora for the reference above.

Two iron nails were also discovered in the tomb, one in the southern loculus [IV] and the other in Ossuary 1. It appears that these nails were used inside the tomb to scratch the inscriptions on the ossuaries after the bones had been collected and placed in them, even after some of the ossuaries had been placed in their loculi.⁹⁴

There is no evidence for the assertion that the nails from the Caiaphas tomb were used for crucifixion.

2.3 The La Larda Locality of Gavello: Skeletal Remains

Emanuela Gualdi-Russo, Ursula Thun Hohenstein, Nicoletta Onisto, Elena Pilli, and David Caramelli recently published an article in which they found a “lesion on the foot of a skeleton from an isolated Roman burial discovered by excavation in 2007 in northern Italy.”⁹⁵ The skeleton was of an adult male. They hypothesized that crucifixion could have caused the lesion in the bone. The authors “observed a lesion passing through the entire width of the [right] calcaneus under the *sustentaculum*. The perforation (length 24 mm) (Fig. 2) shows a regular round hole passing from the medial side (diameter 9 mm) to the lateral one (diameter 6.5 mm).” The authors also write that a “root-etching has produced a through hole on a metatarsal” (cf. fig. 3 in the article). In their discussion the authors note that “the main biological factors that can produce superficial galleries, scores, punctures, and/or borings in the bones are root/fungi etching and the activities of carnivores and carrion insects ...” Their only argument for the conclusion that the injury to the calcaneus was

⁹⁴ Cf. Z. Greenhut, Discovery of the Caiaphas Family Tomb. Jerusalem Perspective 4/4-5 (1991) 6-12, esp. 11. Cp. idem, The ‘Caiaphas’ Tomb in North Talpiyot, Jerusalem, Atiqot 21 (1992) 63-71, esp. 68 “It is possible that these nails were used to inscribe the ossuaries after the bones had been deposited in them (Rahmani 1986:97), possibly even after some of the ossuaries were placed inside the *kokhim* [loculi]” and idem, Discovered in Jerusalem: Burial Cave of the Caiaphas Family, BAR 18/5 (1992) 28-36, 76. Greenhut’s reference above is to L. Y. Rahmani, Some Remarks on R. Hachlili’s and A. Killebrew’s ‘Jewish Funerary Customs,’ PEQ 118 (1986) 96-9. Cf. R. Hachlili and A. Killebrew, Jewish Funerary Customs During the Second Temple Period in the Light of the Excavations at the Jericho Necropolis, PEQ 115 (1983) 109-32. Rahmani, *ibid.*, 97 writes, “Single nails, as at times found in the local tombs, also need not be connected with such magic beliefs. Most of them seem to have served to incise the very carelessly executed inscriptions upon the ossuaries ... Some such nails have also been found serving as rivets, fixing an ossuary’s cover to the rim of its chest ... Finally, it should be taken into account that such a nail might have been introduced into the tomb in order to earmark a burial place. I thank Dr. Greenhut for supplying me with one of his articles that was difficult for me to obtain.

⁹⁵ E. Gualdi-Russo, U. Thun Hohenstein, N. Onisto, E. Pilli, and D. Caramelli, A multi-disciplinary study of calcaneal trauma in Roman Italy: a possible case of crucifixion?, Archaeological and Anthropological Sciences (2018) 1-9 (DOI: 10.1007/s12520-018-0631-9). Fig. 1 depicts the skeleton and overhead photographs identifying the location of the site. The authors note that “roman bricks and tiles: *tegulae* and *imbrices*” were discovered in the layers where the skeleton was found.

inflicted *peri-mortem* is that “the blow was inflicted from medial [inside] to lateral, causing a breakthrough in the impact area (entry point).”

No nail was found in the calcaneus. Some reflections of physical anthropologist and archaeologist Joe Zias are worth quoting in full here:

The calcaneum is like an egg shell, and any trauma to the heel means it is hopelessly broken into bits and pieces ... Occasionally we find tree roots, which slowly expand into the human skeletal remains. The authors [of the La Larda study] admit that there were signs of tree roots on other bones. Had this been a case of nailing, the heel bone would have been in pieces, but as the foot is impacted by soil, the roots will slowly work their way through the burial leaving it intact ...⁹⁶

One cannot claim that it is impossible that a nail caused the trauma in the right calcaneus of the buried skeleton. However, it is far simpler to use Occam’s razor, dismiss the elaborate hypothesis that the lesion was caused by crucifixion, and to argue instead that a slow growing root created the hole in the calcaneus. In addition, more information on the context is needed; in particular, scholars need to know how much root activity appears in the burials of the Roman stratum at La Larda. The discrepancy in the diameter of the entry and exit points in the calcaneus implies that a root and not a nail made the lesion.

2.4 *The Mendes Harbor in the Nile Delta: Skeletal Remains*

Arthur C. Aufderheide and Conrado Rodriguez-Martin write concerning two skeletons from the Mendes harbor that they date to “A. D. 0 ± 100 years”:

Two adult males showed the long bone fractures characteristic of crurifragium. In addition, one of these revealed a nail hole through the distal right femur and also a nail hole suggesting the left foot overlapped the right foot at the ankle. A nail hole traversed the left ankle, the left heel and the medial side of the right heel (Redford & Lang, 1996; Patrick Home, personal communication).⁹⁷

The reference to Donald B. Redford and Carol Lang is a newsletter on the Akhenaten Temple Project.⁹⁸ The two photographs which Aufderheide and Rodriguez-Martin include show respectively: a) a calcaneus with a round hole through the lateral and medial sides – in which an individual is inserting a

⁹⁶ Personal communication of 12 July 2018. An exception to Zias’s statement is the use of small calcaneal pins by modern physicians. Cf. A. O. Mekhail, N. A. Ebraheim, B. E. Heck, and R. A. Yeasting, *Anatomic Considerations for Safe Placement of Calcaneal Pins, Clinical Orthopaedics and Related Research* 332 (1996) 254–9.

⁹⁷ A. C. Aufderheide and C. Rodriguez-Martin, *Crucifixion*, in: *The Cambridge Encyclopedia of Human Paleopathology*, Cambridge 1998, 38–9.

⁹⁸ D. B. Redford and C. Lang, *Crucified!*, *The Akhenaten Temple Project Newsletter* (University of Toronto, Canada) (1996 Nr. 1) 1–2. They note that the “human remains were retrieved from area AN-DV-7” (*ibid.*, 2) At no point in their one paragraph summary of the find do they note the extensive root activity in the cemetery.

modern nail; and b) two tibia (“long bones”), one of which has a horizontal fracture, and one which has a diagonal fracture.⁹⁹ The reason for the fractures in the long bones is wholly indeterminate, and one cannot demonstrate that *crurifragium* is the correct explanation. In addition, Nancy C. Lovell comments, “the broken edges of the bones (especially the one on the bottom of the photograph¹⁰⁰ are lighter in color than the outer surface of the bone, indicating that the break was ‘recent’ – if it had been a pre-mortem break all of the edges would be a uniform colour from the burial sediment.”¹⁰¹ No nail was found in the calcaneus. Joe Zias remarks that there is a “discrepancy of several cms. in the photograph where the modern nail enters the heel bone and the exit point; not to mention the discrepancy in the size of the holes; and although it is difficult to tell from the photograph, the holes appear to be of two differing sizes. This is another tree root example.”¹⁰²

I am grateful for a lengthy communication from Professor Lovell who has done her own excavations near the site of the alleged victim of crucifixion. Since so little has appeared on this subject in publication, I will quote her remarks in full, with only a few deletions:

I first saw the example of the “crucifixion” in 1996. I was doing my own excavations at an area of the site quite separate from Donald Redford’s excavations, but was collecting data from bones and teeth that his team of volunteers had excavated to add to my database. In the lab, I encountered a small box labelled “crucifixion” – Redford told me that one of his regular volunteers in the previous year (I believe) had been examining the remains in the lab and had gone to Redford and said, “I think you have got an example of a crucifixion.” Neither Redford nor this team member had actually seen the bones *in situ*. And therein lies the problem. I immediately thought it was the result of a root growing through the calcaneus – the site is covered in camel grass and many/most of the graves we excavated had roots everywhere – through the wood of coffins, through bones, and throughout the sediments. But those on Redford’s team who believed this was a case of crucifixion had not examined the remains *in situ*.

I followed a paleopathological/forensic approach and put a knitting needle through the path left by (in my opinion) the root, and the point of entry and angle of the path were inconsistent with any published examples of the various ways in which the body was nailed to a cross, upright, tree, etc. (I am familiar with the one unquestionable example, that with the nail, calcaneus, and wood [i.e., from Giv’at ha-Mivtar]).

I have not published any critique of Redford’s interpretation, although I did present a paper on my interpretation at an annual meeting of the Canadian Association for Physical Anthropology many years ago. For what it is worth, the image of a root growing through the lower end of a femur convinced all present that root activity was certainly a more parsimonious explanation for the hole in the calcaneus than was crucifixion. There may have

⁹⁹ Aufderheide and Rodriguez-Martin, *Crucifixion*, esp. fig. 3.20. They credit the photo to “Carol Lang and Akhenaton Temple Project, Royal Ontario Museum, Toronto.”

¹⁰⁰ Aufderheide and Rodriguez-Martin, *Crucifixion*, 39, fig. 3.2.

¹⁰¹ Communication of 8 August 2018.

¹⁰² Communication of Dr. Zias (2 August 2018). I thank Dr. Zias for his many comments on issues in this addendum.

been two calcanei with “holes,” but only one even remotely resembled perforation from a nail.¹⁰³

Until there is a publication of the find in an archaeological journal, one perhaps needs to withhold final judgment, but at this time the most probable explanation for the holes in the bones is root activity.

2.5 Presumed Christian Crosses in Pompeii and Herculaneum

Some scholars have asserted that several archaeological finds in the region of Pompeii and Herculaneum are Christian crosses.¹⁰⁴ Matteo Della Corte, for example, believed that CIL 4, 10062, a cryptic graffito found in Regio I, insula 13 of Pompeii (now lost) depicted a Christian cross. The graffito measured 20 cm x 11 cm.¹⁰⁵ Above a Latin cross (+) are letters which can be read as VIV, VRI, or VN. Two marks on the bottom half of the vertical line resemble a V. Della Corte interpreted the graffito to signify: *viv(at) (crux) v(ivat)*. Bruce Longenecker reads the text as *vivit* (he lives).¹⁰⁶ The entire construction is unfounded speculation. Francesco Vivolo presents a more probable alternative: “no one stops to think of a simple scrawl (*scarabocchio*) or any kind of mark.”¹⁰⁷ There are numerous decorative graffiti in the collection of Martin Langner.¹⁰⁸ He informs me, with regard to the intersecting lines, that “there

¹⁰³ Communication of 2 August 2018. I have changed “Don” to “Redford” above. In her communication, Professor Lovell included a photograph that showed roots penetrating the wood of a coffin and the sediments around a skeleton that had been buried at the site.

¹⁰⁴ One of the most recent is B. Longenecker, *The Cross Before Constantine. The Early Life of a Christian Symbol*, Minneapolis 2015, 121–148, and idem, *The Crosses of Pompeii. Jesus Devotion in a Vesuvian Town*, Minneapolis 2016, 101–144. This section is a brief summary of my article, *Alleged Christian Crosses in Herculaneum and Pompeii*, *VigChr* 72 (2018) 1–20.

¹⁰⁵ Cf. M. Della Corte, *Iscrizioni scoperte nel quinquennio 1951–1956*, NSA 12 (1958) 77–187, esp. 113 § 181 and the relevant fascicle (CIL 4, 10062): *Corpus inscriptionum Latinarum. Consilio et auctoritate Academiae scientiarum Germanicae editum. Voluminis quarti supplementi pars tertia*. Edidit Matthaeus Della Corte. 4. Lieferung. *Inscriptiones Pompeianae parietariae et vasorum fictilium annis 1951–1956 repertae*. Edendas curavit Fulcherus Weber. *Inscriptiones Herculaneenses parietariae et vasorum fictilium*. Edidit Pius Ciprotti, Berlin 1970, p. 10043. See in particular H. Solin’s rejection of Della Corte’s speculations: idem, review of CIL IV Suppl. 3. Lfg. 3.4. *Edd. Weber, Ciprotti, Gnomon* 45 (1973) 258–277, esp. 276–277.

¹⁰⁶ Longenecker, *Crosses of Pompeii*, 145–151. In addition, Longenecker believes that the cross sign is a ligature for *IT*. This is highly improbable. For details, cf. Cook, *Alleged Christian Crosses*, 3–4 (with an image of the graffito).

¹⁰⁷ Cf. F. P. M. Vivolo, *Pompeii. I graffiti figurati*, Foggia 1993, 194. H. Hoffmann, *Satorquadrat*, *PRE.S* 15 (1978) 478–565, esp. 550 suggests that it might be a “proof or some other kind of secular sign.”

¹⁰⁸ M. Langner, *Antike Graffitizeichnungen. Motive, Gestaltung und Bedeutung*, Deutsches Archäologisches Institut Rom. Palilia 11, Wiesbaden 2001, § 45–186.

are many scratchings on Pompeian walls. I do not think that they mean anything or at least anything we can recognize today.”¹⁰⁹ In this case, Occam’s razor is useful: The elaborate interpretation of the graffito as the cross of Christ with an accompanying acclamation is unwarranted.¹¹⁰

A cruciform bas relief in a bakery in Pompeii (VI.6.20–21) was published in 1824 by François Mazois as an engraved vignette.¹¹¹ Mazois viewed the object in 1813/1814 in the bakery that was attached to a villa. It has long since disappeared. The bottom of the vertical is wide and rounded. The ends of the horizontal are curved. The top of the vertical appears to be somewhat cut off. Antonio Varone argues that Mazois might have smoothed out the irregularities of the design due to his notion that the object was a Christian cross. He notes that the Maiuri suspected the image was “perhaps falsified by the excessively decorative drawing of Mazois.”¹¹² Grete Stefani notes that “the object was erroneously interpreted to be a cross, symbol of Christianity.”¹¹³ On the west wall was a *lararium*, which comprised a painting of a serpent that Mazois believed was a symbol of a genius.¹¹⁴ Next to it was a brick fixed in the wall, which supported a lamp that “burned in honor of the custodial divinities.”¹¹⁵ He had doubts that it was a Christian cross, a symbol of the new religion next to “the images and practices of one of the most ridiculous superstitions of antiquity. It is difficult to imagine that the same person could at the same time revere the cross of Christ and worship *Janus*, *Ferculus*, *Limentius*,

¹⁰⁹ Personal communication of 27 July 2016.

¹¹⁰ Much of this is taken from the author’s *Alleged Christian Crosses*, 6–8.

¹¹¹ F. Mazois, *Les ruines de Pompeii: Dessinées et mesurées par F. Mazois pendant les années 1809–1811. Publiées à Paris en 1812* [subtitle in vol. 1 only], 4 vols.; Paris 1824–1838, 2:85. For an image see Cook, *Alleged Christian Crosses*, 12.

¹¹² A. Varone, *Presenze giudaiche e cristiane a Pompei*, Napoli 1979, 31–34, esp. 31, with bibliography on the find in idem, 90–91. Cf. A. Maiuri, *Sulla scoperta della Croce ad Ercolano*, *Le Arti* 2 (1939–1940) 187–192, esp. 191: “falsato forse dal disegno troppo decorativo del Mazois.”

¹¹³ G. Stefani, *Pompei. Un panificio*, in: *Soprintendenza Archeologica di Pompei, Cibi e sapori a Pompei e dintorni. Antiquarium di Boscoreale*, 3 febbraio–26 giugno 2005, Pompei 2005, 139.

¹¹⁴ A *lararium* (household shrine) from the House of the Vetii (VI.15.1) in Pompeii depicts a serpent (who approaches the “offerings on a small altar”) under three figures (two *lar- es* and the genius of the family). Cf. G. P. Carratelli, ed., *Pompei: Pitture e mosaici*, 10 vols.; Roma 1990–1999, 5:571 § 167. Valerie M. Warrior argues that the serpent “probably represents fertility and thus the prosperity of the household” (*Roman Religion*, Cambridge 2006, 29). Cp. the similar description of *lararium* paintings by J. Rüpke, *A Companion to Roman Religion*, Chichester 2011, 198 (the serpent most probably had “a protecting and evil averting function”).

¹¹⁵ Mazois, *Les ruines*, 2:84: “une espèce de croix en bas-relief” (“a sort of cross in bas-relief,” a description that lacks confidence). He refers to torches that burned at doors (*Juvenal Sat.* 12.91–92) and windows (*Persius Sat.* 5.180–182).

and *Cardea*, divinities who guarded the doors.¹¹⁶ Especially if one considers an obscene image, from an incomprehensible cult, that is found near the same place.”¹¹⁷ In the kitchen of the bakery (VI.6.17) above the oven was an image of a phallus that presumably was apotropaic.¹¹⁸ In the kitchen were two *larraria*, which comprised paintings of two serpents. Under one serpent on a wall was a small brick, placed there for offerings.¹¹⁹ Longenecker compares the image to an Egyptian ankh, although he rejects the comparison since the loop at the top is absent. He believes, however, that the alleged Christian cross in the image was influenced by the Egyptian symbol.¹²⁰ Volker Michael Strocka argues that the cruciform image must be interpreted within the larger archaeological context, which is clearly pagan. In addition, one cannot exclude the possibility that the top of the ankh was separated from the bas relief, since the top of the image in Mazois’s book does appear to be cut off.¹²¹ Due to the pagan archaeological context, the image is almost certainly apotropaic in function.¹²² The best hypothesis at this time is that the image is an incompletely preserved ankh or some other apotropaic symbol.¹²³ There are no objective grounds for believing that the image was a Christian cross.

In October 1938, Amadeo Maiuri found a cruciform shape in the plaster on the west wall of a small room (3 x 2.7 meters) on the second floor of a villa in Herculaneum.¹²⁴ On the floor below the impression was a cupboard and in

¹¹⁶ These gods, in various combinations, are listed by Augustine Civ. 4.8, Arnobius Nat. 4.8, and Tertullian Idol. 15.5, Cor. 13.9, Nat. 2.15.5, Scorp. 10.6. Contra Longenecker, Crosses of Pompeii, 118–119, Mazois (Les ruines, 2:84) does not say these deities were only worshipped in the main entrance to the villa. Mazois assumes the baker worshipped them at the entrance of the shop.

¹¹⁷ Mazois, Les ruines, 2:84.

¹¹⁸ Stefani, Pompei. Un panificio, 139 argues that the image was not erotic, but apotropaic, protecting the oven. There is an inscription: *hic habitat felicitas* (here lives happiness) above and under the phallus.

¹¹⁹ G. Fiorelli, Descrizione di Pompeii, Napoli 1875, 105, G. K. Boyce, Corpus of the Lararia of Pompeii, Rome 1937, No. 158.

¹²⁰ Longenecker, Crosses of Pompeii, 106–15.

¹²¹ V. M. Strocka, review of Longenecker, Crosses of Pompeii, Early Christianity 8 (2017) 523–8, esp. 524–5.

¹²² My original thesis that it was some kind of baker’s tool is probably incorrect (Alleged Christian Crosses, 15–8).

¹²³ Professor Strocka (personal communication of 18 April 2018) argues for the ankh. A colleague has suggested that it could be a poorly executed phallus.

¹²⁴ A. Maiuri, Pompei ed Ercolano fra case ed abitanti, Padova 1950, 247–258, esp. 246, 256. Insula V.15–16. The location of the small room on the second floor may be found in a plan published by R. E. L. B. de Kind, Themis en Iusta voor vrouwe Justitia. Vondsten op een bovenverdieping in Herculaneum, Hermeneus 62 (1990) 192–202, 263, esp. 197, fig. 2. Available online at <http://images.tresoar.nl/bibl-collectie/Hermeneus/Jaargang%2062/6203/6203.pdf> (accessed 17 July 2016). P. Ciprotti, Postille sui Cristiani di Pompei e di Ercolano, in: Miscellanea Antonio Piolanti, vol. 2, Roma 1964, 205–221, esp. 219 was less confident

front of it was a small stool. The cruciform indentation was 43 cm high and 36.5 cm broad. Maiuri concluded that the objects were part of a domestic oratory (with a prayer stool, altar and cross).¹²⁵ Longenecker and many predecessors have argued that a Christian cross must have hung on the wall.¹²⁶ Eric Moormann concludes that the debate over the cruciform shape in Herculaneum has “only quieted in the last decades. Skeptics seem to have won the argument: the incision simply served for the insertion of two interconnected wooden laths to support a small plank.”¹²⁷ Such a wooden shelf has been found in the temporary kitchen (room 12) of the Villa Regina of Boscoreale.¹²⁸ It is almost exactly the same shape as that of the impression in Herculaneum. The find vitiates the contention that the cruciform shape in the wall of the Casa in Herculaneum is a Christian cross, part of a Christian chapel. The find at Boscoreale removes any doubt about the function of the artefact in Herculaneum according to Richard de Kind who affirms that “we can properly put aside the theory of a Christian chapel on the upper floor of the Casa del Bicentenario in Herculaneum.”¹²⁹

than Maiuri and seemed to agree that the object was a shelf support, although he wondered why the vertical indentation was so high.

¹²⁵ A. Maiuri, *Ercolano – I nuovi Scavi 1927–1958*, Roma 1958, 222–239 esp. 236–237 and fig. 186, idem, *Pompei ed Ercolano*, 247–258 (fig. 20 shows the cupboard, three bowls and a lamp on the floor, and a pitcher in the corner; 257: “un sacello [chapel],” “an altar of offering made of wood”; the individuals were *peregrini* or “perhaps Jews converted by Paul’s preaching”).

¹²⁶ Longenecker, *Cross*, 130–132 and *Crosses of Pompeii*, 52–59, 102–103 (noting that the view of the artefact as shelf support is “the consensus view”). He is apparently unaware of the evidence from Boscoreale.

¹²⁷ E. Moormann, *Pompeii’s Ashes. The Reception of the Cities Buried by Vesuvius*, Berlin 2015, 239. He refers to L. Falanga, *La croce di Ercolano. Cronistoria di una scoperta*, Napoli 1981, 56–57 (the artefacts in Boscoreale and Herculaneum), and S. T. A. M. Mols, *Wooden Furniture in Herculaneum. Form, Technique and Function*, Amsterdam 1999, 26–27, 56, figs. 162–163: “A ‘cross’ found on the wall above the piece was long thought to imply a Christian altar, but since publications by L. Falanga and R. de Kind it has been generally accepted that only a simply cupboard was involved. The ‘cross’ is merely the impression left by a shelf.” Mols (*ibid.*, 213) also remarks: “whatever the function of the room, it contains no evidence for the presence of Christians in Herculaneum.” Cf. also de Kind, *Themis*, 198, 201–202 (with images on 198 and 263 of the artefacts in Herculaneum and Boscoreale) and L. Falanga, *La mensola di Boscoreale e la ‘croce’ di Ercolano*, *Sylva Mala: Bollettino del Centro Studi Archeologici di Boscoreale, Boscotrecase e Trecase* 12 (1986) 12–15 (available at: <http://centrostudiarc.altervista.org/images/sylvamala/pdf/SYLVA%20MALA%20VII%20-%201986.pdf>).

¹²⁸ For photographs, cf. Cook, *Alleged Christian Crosses*, 9–10. S. R. Joshel and L. H. Petersen, *The Material Life of Roman Slaves*, New York 2014, 200–201 locate it in room 12 of the villa’s plan (and include a photograph). Falanga, *La croce*, 56 gives the measurements of the console as 62 by 49.5 cm.

¹²⁹ de Kind, *Themis*, 202. The material above is taken nearly verbatim from Cook, *Alleged Christian Crosses*, 7–11.

Images



Figure one. The “Arieti” Tomb: Man attached to a *patibulum*. Roma, Musei Capitolini, Centrale Montemartini, Inv. MC 2461/S. Archivio Fotografico dei Musei Capitolini



Figure two. Arieti Tomb: Wrist attached to *patibulum* with a fetter

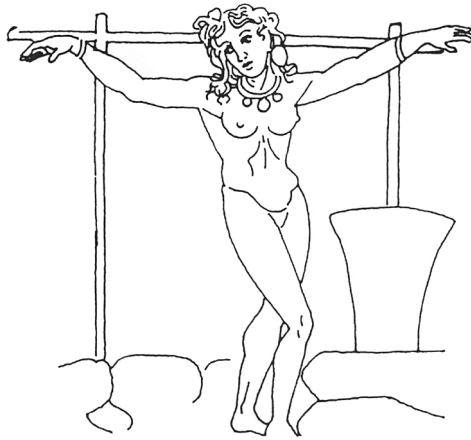


Figure three. G. Lafaye, *Crux*, DAGR I/2 1574. *cista*: Andromeda exposed on a *patibulum*

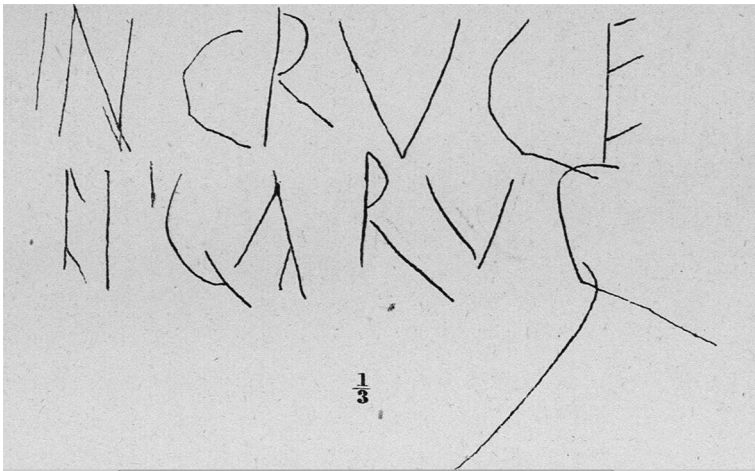


Figure four. CIL IV, 2082, Table VI § 3: IN CRUCE FIGARUS (GET CRUCIFIED)



Figure five. Puteoli graffito, photograph courtesy of Professor Giuseppe Camodeca. Image reproduced by permission of the Ministero per i Beni e le Attività Culturali. Soprintendenza Speciale per i Beni Archeologici di Napoli e Pompei

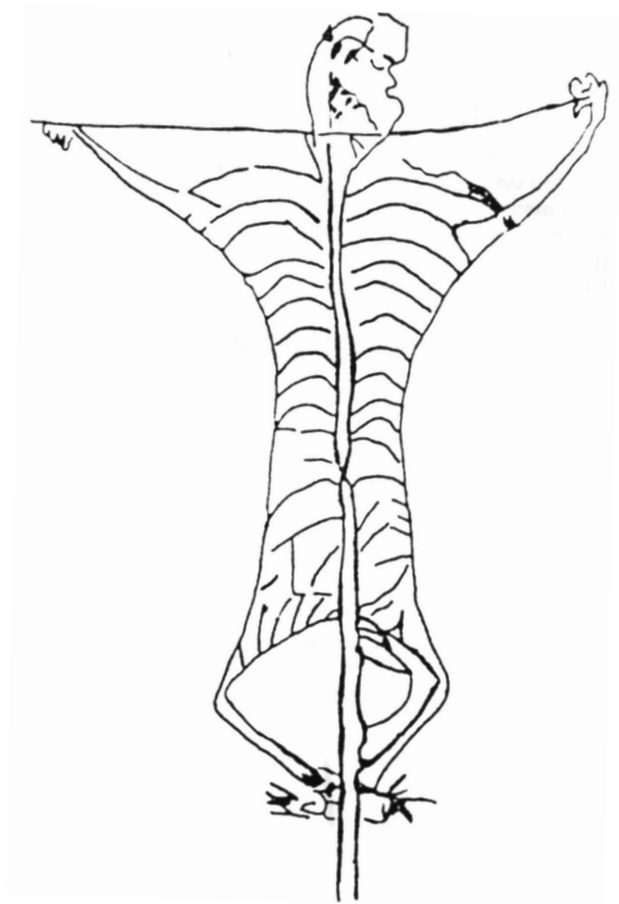


Figure six. Drawing of the Puteoli graffito, courtesy of Antonio Lombatti



Figure seven. Puteoli graffito: AAKIMIAA (Alkimilla), photograph courtesy of Professor Giuseppe Camodeca

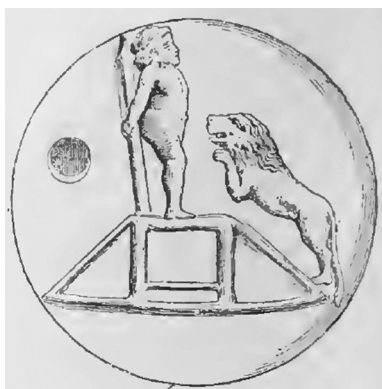


Figure eight. Roman Lamp, *damnatio ad bestias* (G. Lafaye, "Crux," DAGR I/2, 1573-5, esp. 1574)

Figure nine. *Lagynos* (flask) depicting *damnatio ad bestias* (condemnation to death by wild animals) made of African red slip ware, used by permission of the Römisch-Germanisches Zentralmuseum, Mainz (O.39628). Photograph courtesy of Professor Annewies van den Hoek





Figure ten. Palatine graffito: ΑΛΕΞΑΜΕΝΟΣ ΣΕΒΕΤΕ ΘΕΟΝ (Alexamenos worships god) Image courtesy of the Ministero per i Beni e le Attività Culturali — Soprintendenza Archeologica di Roma

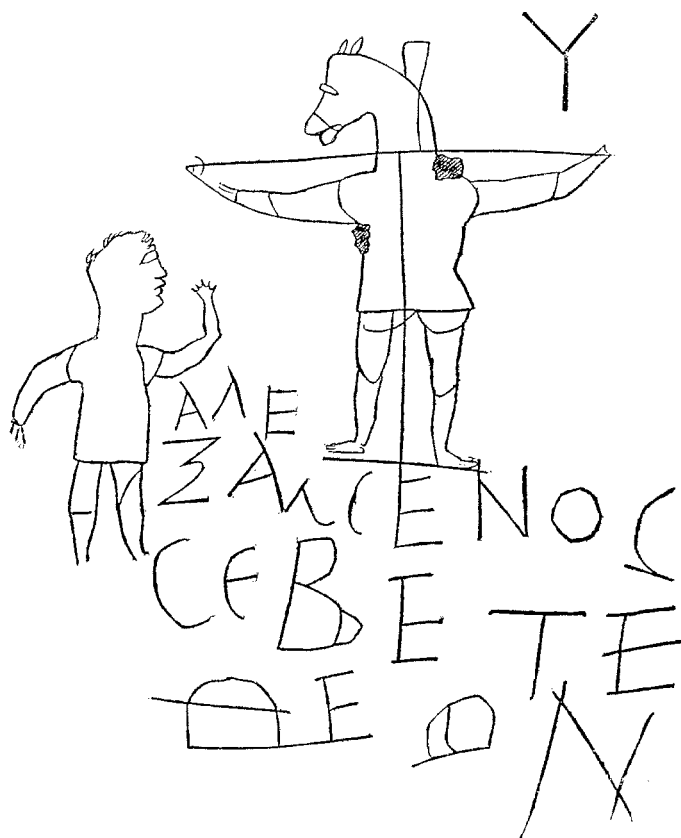


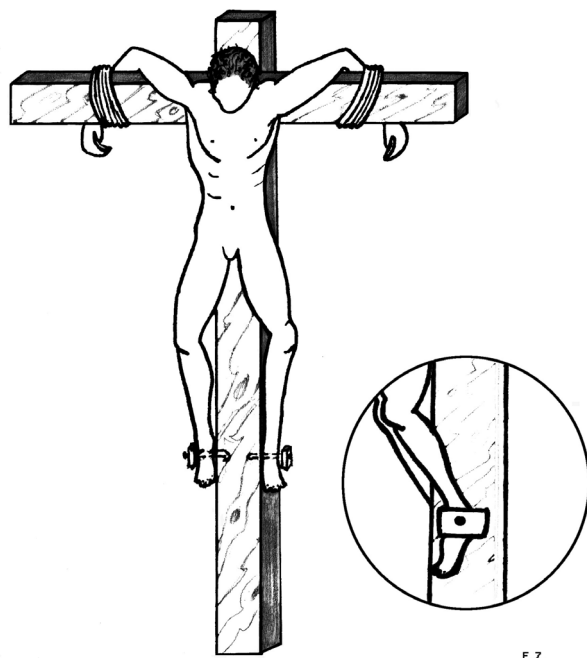
Figure 10bis: Palatine graffito found in the imperial paedagogium. Museo Palatino, Inv. No. 381403. height 38 cm, width 33 cm. Credit: Drawing by R. Garrucci, *Un graffito blasfemo nel palazzo dei Cesari*, *Civiltà cattolica*, anno VII, ser. III, 4 (1856) 529–545, esp. 531.



Figure eleven. Jehohanan ben Hagqol's Right Calcaneum Pierced by a Nail.
Photograph courtesy of Joseph Zias.



Figure twelve. Reconstruction with skeletal remains of a human foot.
Photograph courtesy of Joseph Zias



E.Z.

Figure thirteen. Drawing of the crucified man. Courtesy of Eytan Zias.



Figure fourteen. Magical Amulet, British Museum MME 1986,0501.1, 30 x 25 x 5.8 mm, late II – early III C.E. Photograph © Trustees of the British Museum. All rights reserved.



Figure fifteen. CIL IV, 9983a: Image furnished and reproduced by permission of the Berlin-Brandenburgische Akademie der Wissenschaften (© Corpus Inscriptionum Latinarum) Foto-Archiv CIL, Inv.-Nr. PH0003744.

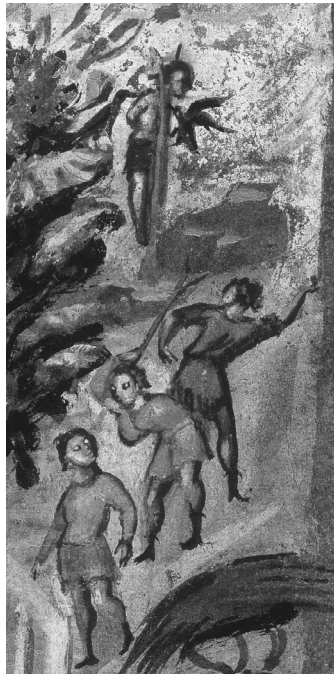


Figure sixteen. Genesis 40:20-22. The baker on a *furca*. Detail of the scene of Pharaoh's Banquet. Österreichische Nationalbibliothek, Cod. theol. gr. 31 (Vienna Genesis), 17^v (folio 34).

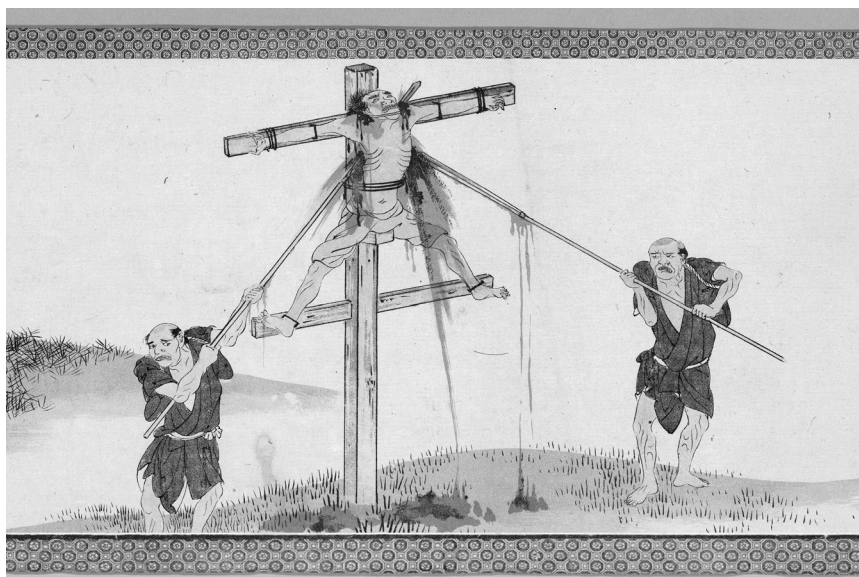


Figure seventeen. Courtesy of the C. V. Starr East Asian Library, University of California, Berkeley. From Terasaki Kōgyō, *Ōkyo ga nanfuku zu mosha*, Tokyo 1890, end of the first scroll. I thank Dr. Deborah Rudolph (of the Starr East Asian Library) for her help in locating the image.



Figure eighteen. Haritsuke: Execution of Sokichi, ca 1865–1868. Digital image courtesy of the Nagasaki University Library

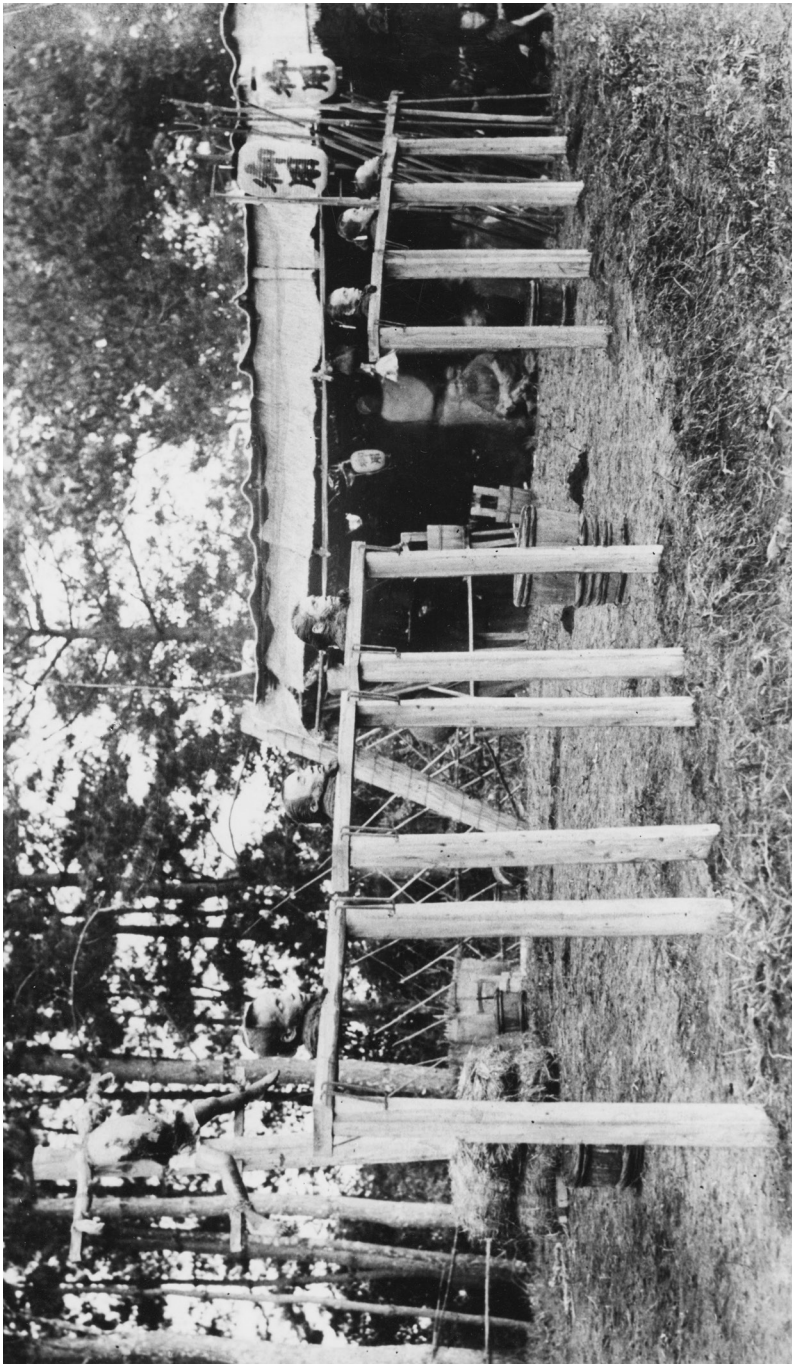


Figure nineteen. Haritsuke. Credit: The Crucifixion of the Servant Sokichi, c.1865-8 (b/w photo), Beato, Felice (Felix) (1825-c.1908) / Private Collection / The Bridgeman Art Library

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